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

REPORTER'S TRANSCRIPT
NOVEMBER 18, 2021

REPORTED BY: Jillian M. Sumner
CSR NO. 13619

1 Speakers for California Association of Clerks and
2 Election Officials Continued:

3 Alina Kasparian
4 Acting Chief
5 Assessment Appeals Division
6 Executive Office
7 Los Angeles County Board of
8 Supervisors

9 Marcy L. Berkman
10 Retired Deputy County Counsel
11 Santa Clara County

12 Kathy McClellan
13 Assistant Clerk
14 Board of Supervisors
15 Sacramento County

16 Kyreen Gonzalez
17 Deputy Clerk
18 Board of Supervisors
19 Sonoma County

20 Ernest Dronenburg
21 Assessor/Recorder/County Clerk
22 San Diego County
23 President
24 California Assessors'
25 Association

26 Speakers for California Alliance of Taxpayers
27 Representatives:

28 Marc Aprea
Principal
Aprea & Micheli Associates

Kevin J. Moore
Principal Shareholder
Kevin J. Moore & Associates
Law, PLC

Bradley R. Marsh
Shareholder
Greenberg Traurig Law, LLP

Written Comment:

Erica S. Kenney
West Coast Tax Counsel
Council On State Taxation

Public Comment:

Tim Schmelzer
Vice President
California State Relations for
Wine Institute

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1 STATE BOARD OF EQUALIZATION
2 TELECONFERENCE
3 NOVEMBER 18, 2021

4 ----oOo----

5 MR. VAZQUEZ: Good morning, all. I see
6 everybody now on the screen.

7 With that, good morning to all. And I
8 believe now we are ready to call this meeting to
9 order to reconvene, basically, our meeting.

10 If Ms. Taylor is on the line.

11 MS. TAYLOR: Good morning, Chairman.

12 MR. VAZQUEZ: I would like -- if you could
13 go ahead and please call the roll.

14 MS. TAYLOR: Chairman Vazquez.

15 MR. VAZQUEZ: Present.

16 MS. TAYLOR: Vice Chair Schaefer.

17 Vice Chair Schaefer.

18 MR. SCHAEFER: Present.

19 MS. TAYLOR: Member Gaines.

20 MR. GAINES: Present.

21 MS. TAYLOR: Member Cohen.

22 MS. COHEN: Present.

23 MS. TAYLOR: Deputy Controller Stowers.

24 MS. STOWERS: Present.

25 MR. VAZQUEZ: So we do have a quorum. This
26 meeting is now officially reconvened.

27 And before we begin our order of business,
28 just a friendly, once again, reminder, especially

1 today, because I understand we have several other
2 guests that are also sharing this one line with us.

3 And I know we, as the Members, especially
4 last Tuesday, everybody did a great job in making
5 sure that we were recognized before speaking, so our
6 transcriptionist could properly identify who is
7 speaking and record our minutes as accurate as
8 possible.

9 So for those of you that are guests today
10 that I understand are on Teams with us this morning,
11 please just -- I appreciate your patience, and to
12 work with us with this technology that we're
13 experiencing under COVID here.

14 So with that, just another friendly reminder
15 that when you're not speaking, if you would just
16 please mute your mic. Because otherwise, you know,
17 if we have 10 or 15 people on the line, and everybody
18 is shuffling papers, it can get pretty distracted and
19 loud.

20 So with that, let me just -- before we begin
21 our first order of business, Member Gaines, I think,
22 wanted to make an announcement. And I see his hand
23 up.

24 So let me turn the mic over to Mr. -- Member
25 Gaines.

26 MR. GAINES: Great. Thank you so much,
27 Chair Vazquez. I appreciate it.

28 And, you know, we get very busy in life.

1 And we've got to remember the importance of each
2 additional year that we live, and make the most of
3 our lives.

4 And so I just want to take this opportunity
5 and recognize our Chair, Tony Vazquez, who is -- it's
6 my understanding that he's going to celebrate a
7 birthday tomorrow.

8 And so I just wanted to wish you a happy
9 birthday, Tony. And I hope you have a great time
10 with your friends and family.

11 MR. VAZQUEZ: Thank you. Thank you.

12 I wish I would be able to celebrate it
13 with -- in person with all of you and many others.
14 But, you know, this COVID has really taken us back.

15 I mean, now at least I'm able to gather with
16 some family and some friend that are -- that I
17 usually occasionally see any way. But it's not the
18 same.

19 MR. GAINES: Yeah. Well, enjoy it as best
20 you can.

21 MR. VAZQUEZ: Thank you. I appreciate it.

22 MR. SCHAEFER: I, Vice Chair Schaefer,
23 second that.

24 MR. VAZQUEZ: Sure. Go ahead, Vice Chair
25 Schaefer.

26 MR. SCHAEFER: And usually when Ted makes an
27 announcement, it's another grandchild. That's what I
28 was prepared for.

1 I'm glad to see you're out into the birthday
2 business now.

3 MR. VAZQUEZ: Thank you. Thank you.

4 Was that a -- I don't know if I saw a
5 physical hand from Member Cohen, or was that
6 something else?

7 MS. COHEN: I just wanted to join in with
8 the rest of my colleagues in wishing you a happy
9 birthday.

10 MR. VAZQUEZ: Thank you. Thank you.

11 Actually, when you asked for the time this
12 morning, Member Gaines, I thought you were going to
13 bring up -- and since you didn't, I will bring it up
14 just briefly.

15 I noticed last -- actually, last Tuesday, I
16 probably should have brought it up, you know, this
17 historical bipartisan infrastructure that just
18 passed. And now we have our President just signed
19 it.

20 And as I was looking at it, what's it's
21 going to generate, I mean, for California, it's huge.
22 I mean, for the whole country, it's going to be huge.

23 It's coming up to like 25 -- over 25 billion
24 to repair highways, right? And something like
25 4 billion to repair bridges, close to 10 billion to
26 improve our public transportation.

27 And then the one that caught my eye was
28 the -- it was, I think they set aside close to almost

1 four -- I think it was -- I don't know. I think it's
2 actually -- where'd I see it here -- for wildfires,
3 they set aside several billions also to help with
4 that.

5 But the key thing is that, you know, all
6 this infrastructure that's going to happen here in
7 the next few years, it's going to create some
8 good-paying, quality jobs for Californians and many
9 more throughout the U.S. Looking forward to working
10 with that.

11 Oh, here it is. I think it was
12 84 billion -- or not billion, but million -- to
13 protect against wildfires. And a lot of that is in
14 our state of California.

15 So -- and I know, Member Gaines, you're
16 right in the thick of a lot of those wildfires up
17 north. So hopefully that will filter down to your
18 neck of the woods. Especially for a lot of those
19 families and farmers that have experienced some of
20 those devastations, especially with these wildfires.

21 MR. GAINES: Oh, yeah. We've had a tough
22 time in my district.

23 MR. VAZQUEZ: No, I know. I've been seeing
24 it on the news.

25 MR. GAINES: Do everything we can to try to
26 plan for the future, so that the -- they're not --
27 if -- with proper forest management, I think we can
28 make some huge inroads. And with some logging, too.

1 I did notice on Highway 50 that they are
2 doing some logging right along the roadway. And they
3 got on that quickly. And those areas that were
4 burned out by the fire, by the Caldor Fire.

5 MR. VAZQUEZ: Yeah. I have a good friend
6 that spends a lot of time, he has a business up in
7 Yosemite.

8 And he was sharing with me, there's so many
9 dead trees up there still. And they've cleared
10 several. But it's still a real fire hazard. They're
11 real worried about those igniting.

12 MS. COHEN: Good morning.

13 I was wondering, are we -- are we going to
14 be starting soon?

15 MR. VAZQUEZ: Yes. I'm sorry. Are we
16 ready?

17 MS. COHEN: Thank you. Yeah.

18 MR. VAZQUEZ: Did you have a question about
19 that, Member Cohen?

20 If not, let's go ahead -- let's get going on
21 that.

22 Let me have Ms. Taylor, if she would please
23 announce our first order of business.

24 MS. TAYLOR: Our first order of business
25 today is an announcement regarding public
26 teleconference participation.

27 Good morning and thank you for joining
28 today's Board of Equalization meeting via

1 teleconference.

2 Throughout the duration of today's meeting,
3 you will primarily be in a listen-only mode.

4 As you may know from our Public Agenda
5 Notice and our website, we have requested that
6 individuals who wish to make a public comment fill
7 out the public comment submission form found on our
8 "Additional Information" webpage in advance of
9 today's meeting. Or, alternatively, participate in
10 today's meeting by providing your public comment
11 live.

12 After the presentation of an item has
13 concluded, we will begin by identifying any public
14 comment requests that have been received by our
15 Board Proceedings' staff, with the At&t operator
16 providing directions for you to identify yourself.

17 After all known public commenters have been
18 called, the operator will also provide public comment
19 instructions to those individuals participating via
20 teleconference.

21 Accordingly, if you intend to make a public
22 comment today, we recommend dialing into the meeting
23 on the teleconference line, as the audio broadcast on
24 our website experiences a one-to-three minute delay.

25 If giving a public comment, please limit
26 your remarks to three minutes.

27 We ask that everybody who is not intending
28 to make a public comment, please mute their line.

1 Actually, Mr. Chair, I don't have too many
2 corrections. I just want to thank the Executive
3 Director and her team at Board Proceedings for their
4 work in preparing these edits to the Board Meeting.

5 The minutes accurately reflect the actions
6 taken at the Board Work Group on -- the Board Work
7 Group on Wine Industry and Winegrower Excise Tax
8 Data, that took place on October 20th in 2021.

9 And I just wanted to publicly express my
10 appreciation for the -- for these minutes. Because
11 it's important that the Board always be transparent.

12 And I think it's important -- you've heard
13 me say this before -- but that all of our actions for
14 the taxpayers and the public and the stakeholders,
15 that it be transparent and easy to follow, and easy
16 to understand.

17 So I recommend that the Board adopt these
18 minutes. And I would like to make a motion for the
19 Board to adopt the amended minutes that they have
20 before them today.

21 Thank you.

22 MR. VAZQUEZ: Thank you.

23 MS. STOWERS: This is Yvette Stowers.

24 I second that motion.

25 MR. VAZQUEZ: It's been moved and second.

26 Any discussion, comments, corrections,
27 revisions on the minutes that you have before you
28 that have just been revised?

1 MS. COHEN: We should probably open it for
2 public comment, too.

3 MR. VAZQUEZ: Sure.

4 I see a hand from Vice Chair Schaefer first.
5 Go ahead.

6 I think you're muted, though.

7 MR. SCHAEFER: Thank you.

8 You know, from time to time I raise concern
9 about anonymous testimony being put into the record.

10 I have a debate with some of the staff as to
11 whether due process includes the right to do that or
12 not. I say that it does only with leave of the
13 court. And you are the judge of the court as Chair
14 of the Board of Equalization.

15 Is there any comment or observation within
16 these revisions that speaks to anonymous testimony,
17 or is it just as it was before?

18 We tolerate it, because we feel it's due
19 process. But with Vice Chair Schaefer dissenting.

20 Is there anything in there on the issue of
21 anonymous testimony? Or does that occur?

22 MR. VAZQUEZ: I didn't notice that. I
23 didn't see that.

24 But let me ask Member Cohen. I didn't catch
25 anything.

26 MS. COHEN: No. The answer is a simple
27 no.

28 MR. SCHAEFER: Thank you.

1 MR. VAZQUEZ: With that, if there's no other
2 comments or questions or revisions from any of the
3 Members, let me just check with Ms. Taylor and see if
4 there's any written comments that came in since we
5 announced this last Tuesday.

6 MS. TAYLOR: There are no written comments
7 on this matter.

8 MR. VAZQUEZ: Can we check with At&t if
9 anybody is on the line --

10 MS. TAYLOR: Certainly.

11 MR. VAZQUEZ: -- who wishes to speak on
12 this.

13 MS. TAYLOR: At&t moderator, could you let
14 us know if there's anyone would like to make a public
15 comment on this matter.

16 AT&T MODERATOR: Okay.

17 Ladies and gentlemen, if you would like to
18 make a public comment, please press one, then zero.

19 Once again, if you would like to make a
20 public comment, please press one, then zero.

21 We have no one queuing up for public
22 comment.

23 MR. VAZQUEZ: Thank you.

24 With that, Ms. Taylor, if you would please
25 call the roll on the revised minutes.

26 MS. TAYLOR: Yes.

27 The motion on the floor is to adopt the
28 amended minutes.

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Chairman Vazquez.
MR. VAZQUEZ: Aye.
MS. TAYLOR: Vice Chair Schaefer.
MR. SCHAEFER: Aye.
MS. TAYLOR: Member Gaines.
MR. GAINES: Aye.
MS. TAYLOR: Member Cohen.
MS. COHEN: Aye.
MS. TAYLOR: Deputy Controller Stowers.
MS. STOWERS: Aye.
MR. VAZQUEZ: So that's unanimous of all

those present.

With that, if I can get Ms. Taylor to please call the next item.

ITEM M2

MS. TAYLOR: The next item is M2, Public Policy Hearings: Impact of Public Calamities on Property Tax Administration; County Board of Equalization/Assessment Appeals Boards Remote Hearings.

A continuation of discussion and possible action regarding procedural and due process issues in remote hearings to ensure continuity of business in the pandemic and other calamities, protect the rights of all parties, provide guidance, and seek additional authorities or actions if required.

1 Following the testimony of the listed
2 speakers, other individuals and members of the public
3 will be invited to participate.

4 This matter will be presented by
5 Chairman Vazquez and Member Cohen.

6 MR. VAZQUEZ: Thank you.

7 Members, this is our third hearing of the
8 Statewide Continuity of AAB Operations Work Group
9 since September.

10 All participants have generously shared
11 their input and expertise on clarifications needed
12 for the LTA No. 2021/02.

13 We agreed to schedule this meeting to work
14 line by line on the wording of the four key issues as
15 proposed by CATA and the CACEO.

16 Our goal today is to reach a consensus we
17 can forward to the Executive Director for technical
18 and legal review, and replace -- and placement in an
19 updated LTA.

20 The memo that Member Cohen and I sent you
21 yesterday sets out the exact language proposed by the
22 participants as of October 18th on each of the four
23 issues.

24 The proposed CACEO language is shown in
25 underline, and the proposed CATA language is shown in
26 yellow highlight.

27 There's possible agreement on language that
28 is both underlined and highlighted, and possible

1 disagreement on highlighted, strike-through language
2 in red.

3 Member Cohen and I determined that a
4 facilitator is needed for this line by line for
5 sentence-by-sentence work. And she graciously
6 offered the services of her deputy, Ms. Regina Evans.

7 After the subitem is introduced, Ms. Evans
8 will read the current LTA and language, and newly
9 proposed LTA language, into the record on the issue.

10 She will then call on the lead taxpayer
11 representatives from CATA, Mr. Kevin Moore and
12 Mr. Bradley Marsh; and the lead CACEO
13 representatives, Mr. Tom Parker and former
14 County Counsel, Marcy Berkman, in that order.

15 Each lead speaker will have time to propose
16 additional changes and engage in discussion that will
17 hopefully lead to a consensus.

18 Ms. Evans will also call on other work group
19 participants for the clerks, assessors and taxpayers,
20 and facilitate the discussion to ensure that all
21 input is received.

22 At the conclusion of the discussion, she
23 will read into the record for the Board and all
24 parties the wording agreed upon.

25 As to that issue, I will then ask Ms. Taylor
26 to request public comment on that issue.

27 And after public comment, I will ask Ms. --
28 ask Members for a motion to approve, and refer to our

1 Executive Director for her technical and legal review
2 for placement in an updated LTA.

3 If there is a disagreement that cannot be
4 resolved on this issue, Ms. Evans will identify --
5 identify for the Board the specific wording causing
6 disagreement.

7 And the Board may either, one, refer the
8 matter to an accelerated interested parties process,
9 or continue the work group hearing to a subsequent
10 meeting.

11 With that, Member -- let me turn to
12 Member Cohen.

13 Thank you for your leadership on this. And
14 I would like to make -- and if you would like to make
15 any introductory opening remarks, or comments, or
16 suggestions.

17 And I know you will. So let me turn the mic
18 over to Member Cohen.

19 MS. COHEN: Oh, yes. Cohens. You know I
20 have just a few introductory remarks.

21 MR. VAZQUEZ: I know you do.

22 MS. COHEN: And, again, they are just to
23 frame this morning's conversation.

24 So thank you, Mr. Chair.

25 And thank you to the colleagues and the
26 stakeholders today for the work that they've done on
27 the remote Assessment Appeals Board issue.

28 In the interest of transparency, we're going

1 to engage in this public discussion about possible
2 revisions to letter to the editor 2021-002.

3 This LTA was issued as a result of a series
4 of meetings and robust discussions that took place in
5 2020. And these meetings were held to address the
6 impact of COVID-19 on the Assessment Appeals Boards.

7 A goal of these meetings was to ensure the
8 health protections to taxpayers and the AAB staff,
9 providing guidance for remote hearings.

10 Another goal was to ensure that due process
11 rights for all parties were respected.

12 We look forward to the discussion today to
13 examine whether or not these revisions to the LTA
14 should happen.

15 And based upon the consensus reached during
16 these discussions, we anticipate that consensus
17 language can be submitted to the BOE staff for
18 technical and legal review.

19 My Chief Deputy, who many of you are very
20 familiar with, Ms. Regina Evans will serve as the
21 moderator for the stakeholder discussions.

22 And, Mr. Chair, thank you. I turn the
23 meeting back over to you.

24 MR. VAZQUEZ: Thank you.

25 If there's no other hands or comments, let
26 me go ahead and have Ms. Taylor, if she would please
27 call Subitem A.

28 **SUBITEM A**

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MS. TAYLOR: Our first subitem is A: Report on communications received regarding remote AAB Hearings.

The speaker for this item is Brenda Fleming, Executive Director, California State Board of Equalization.

MS. FLEMING: Good morning, Members.

We are looking forward to a wonderful day, and hearing this very robust discussion on this important matter to address the AAB issue.

And we're looking forward to getting some really good content from this material, so that we can reissue the updated LTA on this item.

Members, on this part of my presentation is just to note if we received any additional or new material.

And for your reference and for the record, the only new item added here is the memo that was dated November 17th under the signature of our cochairs for this matter, Mr. Vazquez and Ms. Cohen.

And so that material has been attached to PAN for your reference. That material will be referenced during the course of this discussion.

And if there's any questions, Members, we're available. Otherwise, that is the only thing that is attached as new material for this item.

That concludes my report.

1 MR. VAZQUEZ: Thank you.

2 Members, are there any comments or questions
3 of our Executive Director?

4 Hearing and seeing none, do any of the work
5 group members have any questions or comments for
6 Ms. Fleming?

7 MR. APREA: Chair, this is Marc Aprea.

8 For the record, I'm here on behalf of the
9 California Alliance of Taxpayer Advocates.

10 On behalf of the Board and the members of
11 CATA, we want to thank you, Mr. Chair, Ms. Cohen, and
12 all of the Members and staff for convening this
13 meeting.

14 As many of you will recall, Breanne Robowski
15 has been an ongoing member of the working group. I
16 am pleased to announce that Breanne Robowski recently
17 gave birth to her daughter, Olivia Ryan U. [phonetic]
18 And as a result, she is unable to be here with us
19 today.

20 Joining -- or on behalf of CATA this
21 morning, from the 10:00 a.m. to 1:00 p.m. time slot,
22 Kevin Moore, who heads up Kevin Moore and Associates,
23 and is an experienced practitioner in tax controversy
24 matters including prop -- including assessment and
25 assessment appeals matters.

26 And who, by the way, will be presenting at
27 the CATA conference an item on Proposition 19, will
28 be the lead representative for CATA this morning,

1 Mr. Brad Marsh, who is a Shareholder with Greenberg
2 Traurig will join us at 1:00 o'clock.

3 And I just wanted to make sure that we set
4 the table in terms of who will be representing or
5 will be the lead representatives for CATA.

6 If there is an item that might require my
7 comment, I will do so. But I think that Mr. Moore
8 will be the -- will be the lead.

9 I think that this -- this line up
10 illustrates that it took three men to replace one
11 woman in representing CATA here today.

12 And I hope that we're able to do an adequate
13 job in representing the members and presenting our
14 views on this matter before you today.

15 Thank you, Mr. Chair.

16 MR. VAZQUEZ: Thank you.

17 And give my congratulations. I didn't
18 realize that all this time while we were taxing her
19 and she was participating in our meeting that she was
20 expecting.

21 MR. APREA: I will relay your good wishes to
22 her at the next opportunity.

23 MS. COHEN: Marc, let me just make sure I
24 heard you correctly.

25 You have three guys coming in to pitch in
26 for Breanne's absence; is that right?

27 MR. APREA: That is correct, ma'am.

28 MS. COHEN: All right. I just wanted to

1 make sure that the record accurately reflects that.

2 Thank you.

3 MR. VAZQUEZ: That is a good point, right?

4 It takes three to replace that woman.

5 Okay. With that, let me just turn to
6 Ms. Taylor and see if there's any written comments on
7 this item before we move forward.

8 MS. TAYLOR: Chairman Vazquez, I see a hand
9 from Mr. McKibben.

10 MR. VAZQUEZ: Oh, okay. I can't see that.
11 But go ahead, Mr. McKibben.

12 MR. MCKIBBEN: Thank you, Mr. Chairman.

13 John McKibben on behalf of the California
14 Association of Clerks and Election Officials.

15 I, too, want to thank you all for convening
16 this meeting. Hopefully whatever comes out of it
17 will work for all the parties.

18 Just wanted to name the folks that will be
19 representing or available to speak on certain points
20 within the proposed LTA language include, as you
21 noted earlier, Tom Parker, county -- Deputy County
22 Counsel for Los Angeles County, and works in our
23 CACEO Assessment Appeal Work Group; Ann Moore from --
24 who is the Chief Deputy Clerk of the Board in
25 San Diego County; Alina Kasparian, Assistant Chief of
26 the Assessment Appeals Division in Los Angeles
27 County; and myself.

28 Although we have not prepared -- we haven't

1 prepared marks -- remarks to make today, we were
2 hoping to be able to speak to the various points in
3 the language that was distributed yesterday where we
4 had disagreements. And hopefully we'll be able to
5 resolve some of these things today.

6 That's really all I had to say at this
7 point.

8 But thank you, again, for doing this today.

9 MR. VAZQUEZ: Thank you. And thank you for
10 your time and participation with us.

11 With that, let me just check with Ms. Taylor
12 and see if there's anybody on the line who wishes to
13 speak on this.

14 MS. TAYLOR: We have a written comment.

15 MR. VAZQUEZ: Oh, yes. Go ahead.

16 MS. TAYLOR: So we received this written
17 comment just this morning from the Council On State
18 Taxation.

19 Dear Chairman Vazquez, thank you for the
20 opportunity to provide comments on the Board of
21 Equalization's consideration of procedural and due
22 process issues in Assessment Appeals Board's remote
23 hearings.

24 On behalf of the Council On State Taxation,
25 COST, I urge you to, one, preserve taxpayer due
26 process rights by ensuring taxpayers have an option
27 for in-person hearings as a fundamental right; and,
28 two, reject arbitrary document submission dates and

1 align document submission rules with in-person
2 hearing practices.

3 About COST: Cost is a nonprofit trade
4 association based in Washington, D.C.

5 COST was formed in 1969 as an advisory
6 committee to the Council of State Chambers of
7 Commerce, and today has an independent membership of
8 over 500 major corporations engaged in interstate and
9 international business.

10 COST's objective is to preserve and promote
11 the equitable and nondiscriminatory state and local
12 taxation of multijurisdictional business entities.

13 COST members have operations in California
14 that would be impacted by AAB procedures.

15 Option for in-person hearing is a matter of
16 due process. COST recognizes that remote hearings
17 can be conducted appropriately and efficiently in
18 many cases. Taxpayers should, however, retain the
19 option of an in-person hearing.

20 The BOE must ensure that all applicants are
21 afforded due process and given the opportunity for a
22 timely and meaningful hearing.

23 Remote hearings do not always provide an
24 opportunity for adequate due process, particularly in
25 more complex cases.

26 For example, meaningful, interpersonal
27 communication, presentation of exhibits and
28 examination of witnesses may all be hindered in

1 remote hearing format.

2 In addition, technical difficulties
3 including connectivity, sound, and video issues can
4 impact the procedural integrity of the hearing.

5 For all these reasons, taxpayers should have
6 the option to select a remote or in-person hearing to
7 preserve due process in AAB hearings.

8 In person and remote document submission
9 rules should be consistent.

10 To further support due process in AAB
11 hearings, we also encourage document submission rules
12 that align with in-person hearings.

13 Specifically, during in-person hearings,
14 parties may present evidence at the hearing.

15 Further, California Revenue and Taxation
16 Code provides for a reasonable continuance or
17 postponement if additional time is needed to review
18 evidence.

19 Imposing document submission rules that
20 require the submission of evidence prior to an
21 arbitrary deadline does not comport with
22 well-established provisions of the California Revenue
23 and Taxation Code, creates unnecessary discrepancies
24 between remote and in-person hearing procedures, and
25 will likely create disparities in practices from
26 county to county.

27 Thank you for your time and consideration.

28 And if you have questions or you would like

1 to discuss these comments further, please do not
2 hesitate to contact me.

3 Respectfully, Erica S. Kenney.

4 MR. VAZQUEZ: Thank you for those comments.

5 And I do see a hand now from our president
6 of the assessor's, Mr. Dronenburg.

7 MR. DRONENBURG: Good morning, Chairman and
8 Members of the Board.

9 I am here, I'll be listening.

10 But as I had stated in the meeting last week
11 that the Board -- the ad hoc committee on this issue
12 is formed and working on it.

13 They will report to our legislative
14 committee that will vote on the -- the recommendation
15 of the ad hoc committee by the first week in
16 December.

17 And then the executive committee will vote
18 on that the following day. And we should have
19 something back for you for your December meeting.

20 But other than that, there will be no change
21 in what I reported to you last week.

22 But I'll stay on and listen just in case
23 Mr. Gaines has another thoughtful question that I can
24 help him with.

25 MR. VAZQUEZ: Thank you. And welcome.

26 Ms. Taylor, that was the only one written
27 comment, correct?

28 MS. TAYLOR: Yes.

1 MR. VAZQUEZ: Do you -- can we check with
2 At&t and see if there's anybody else on the line.

3 MS. TAYLOR: Yes.

4 MR. VAZQUEZ: Or any other participants that
5 may want to comment.

6 MS. TAYLOR: Okay.

7 At&t moderator, could you let us know if
8 there's anyone who would like to make a public
9 comment on this matter.

10 Each caller will have up to three minutes to
11 speak.

12 AT&T MODERATOR: Okay.

13 Once again, if you would like to make a
14 public comment, please press one, then zero at this
15 time; one, zero.

16 And we have no one in queue for public
17 comment.

18 MR. VAZQUEZ: Thank you.

19 With that, Ms. Taylor, if you would please
20 call our Subitem B.

21

22

SUBITEM B

23

24 MS. TAYLOR: Subitem B is Follow-up Report
25 on Surveys of Responses Received from AABs Regarding
26 Remote AAB Hearings and Requests to Clarify
27 LTA No. 2021/002.

28

The speaker for this matter is

1 John McKibben, Committee Chair, California
2 Association of Clerks and Election Officials.

3 MR. McKIBBEN: Thank you, Mr. Chairman and
4 Ms. Cohen and Members.

5 As I indicated earlier, I don't have any
6 prepared remarks. We pretty well covered the
7 territory with respect to the survey.

8 The one thing I do want to go on record in
9 stating again, our aims here are to ensure that there
10 is adequate guidance with regard to appeal -- remote
11 appeal hearings.

12 Because there are a number of counties that
13 will continue to hold remote hearings even after
14 everyone has gone back to also doing in-person
15 hearings. There will be a few counties that will
16 continue using remotes, some extensively.

17 The points that have -- underlying our
18 remarks that we have made, both in writing and in
19 your Board's meetings, there's several things.

20 Under the Constitution, it's our -- our
21 belief and understanding that the county board of
22 supervisors is the -- the -- the body of -- that has
23 ownership of the appeal process.

24 They may choose to delegate that to the
25 Assessment Appeals Board and to the clerk as an
26 administrator.

27 But ultimately it's within the authority of
28 the county board of supervisors to determine what

1 format of hearing, remote or in person or both, will
2 be held, and the -- procedurally, how those are going
3 to go forward based on local rules and direction,
4 guidance provided by the Board of Supervisors.

5 We feel that it's important that that be
6 preserved and not -- not eroded in any way by an LTA
7 from the State Board of Equalization.

8 Secondly, our -- our experience with remote
9 hearings has shown that under the existing LTA, it's
10 resulted in a notable increase in the number of
11 appeals that get postponed.

12 Under -- as -- under the existing LTA, it's
13 a matter of right for the party to demand and receive
14 a postponement.

15 What that's doing is it's aggravating the
16 problem that we already have and have had ever since
17 I've gotten involved with assessment appeals. That's
18 been 38 years of vacated hearing dates that are
19 vacated at a time where we can't backfill them with
20 other appeals to be heard.

21 So what this is doing, the practice that's
22 developed based on the existing LTA, is that it's
23 kicking the can down the road as far as appeals.

24 We can't get them heard. We can't get them
25 disposed of. People are not getting the decisions on
26 their appeals timely, in our view. And it's
27 increasing the backlog more and more and more.

28 And ultimately that's -- that's going to

1 cause some severe problems downstream for everyone.

2 The third thing I did want to say, and I'm
3 preparing a letter to put it in writing. We were
4 hoping that not only this issue, but also the -- the
5 discussion of possibly amending Revenue and Taxation
6 Code Section 155 could be put over until January,
7 rather than the December meeting. Since our
8 association will be meeting that week at our annual
9 New Law Workshop Conference.

10 And the people that we have been presenting
11 on this issue and are here today are going to be tied
12 up in that meeting at that conference. So we were
13 hoping that that could be agreeable to you all to put
14 that over.

15 But I will put that in writing as requested
16 by Brenda Fleming and her staff.

17 So that's all I have right now.

18 Thank you.

19 MR. VAZQUEZ: Thank you.

20 Members, are there any comments or questions
21 of Mr. McKibben?

22 Seeing and hearing none, do we have any of
23 the members of the -- any of the work group members
24 who may have some comments or questions of
25 Mr. McKibben?

26 Ms. Taylor, I'm going to ask for your
27 assistance here. Because I can't see everybody on
28 the screen here.

1 MS. TAYLOR: At this time, no one has a
2 raised hand.

3 MR. VAZQUEZ: Okay.

4 And we don't have any -- do we have any
5 written comments on this?

6 MS. TAYLOR: We do not have any written
7 comments.

8 MR. VAZQUEZ: Can we just check with At&t in
9 case there's somebody on the line?

10 MS. TAYLOR: Certainly.

11 At&t moderator, can you let us know if
12 there's anyone who would like to make a public
13 comment on this matter.

14 Each caller will have up to three minutes to
15 speak.

16 AT&T MODERATOR: And if you would like to
17 make a public comment, please press one, then zero at
18 this time; one, zero.

19 And we have no one in queue for public
20 comment.

21 MR. VAZQUEZ: Thank you.

22 With that, Ms. Taylor, if you would please
23 call our next subitem.

24

25 **SUBITEM C**

26

27 MS. TAYLOR: The next item, Subitem C:
28 Follow-Up Evaluation of Remote AAB Hearings -

1 Taxpayer Representative Perspectives and
2 Clarification of LTA No. 2021/002.

3 Which will be immediately followed by and
4 combined with Subitem D: Follow-up Evaluation of
5 Remote AAB Hearings - County Perspectives and
6 Clarification of LTA No. 2021/002.

7 Subitem C and Subitem D are divided into
8 four issues. First, for rights of AAB hearing
9 participants, type of hearing, which has three sub
10 issues.

11 The first sentence is on the right of the
12 hearing participants, the second sentence is on the
13 due process, the third sentence is on postponement
14 requests, time waivers and justification.

15 The second issue, document submission. The
16 third issue, scheduling efficiencies and notices.
17 The fourth issue, information requests.

18 The facilitator for both Subitem C and
19 Subitem D is Ms. Regina Evans, Deputy to Second
20 District Board Member Malia Cohen.

21 Ms. Evans will first call on the speakers
22 for CATA, who are Mr. Kevin J. Moore, Principal
23 Shareholder, Kevin J. Moore and Associates, PLC law;
24 Marc Aprea, Principal, Aprea & Micheli Incorporated.

25 Ms. Evans will thereafter call on the
26 speakers for CACEO who are Thomas Parker, Deputy
27 County Counsel, Los Angeles County, the lead speaker,
28 and Marcy L. Berkman, retired Deputy County Counsel,

1 Santa Clara County; Alina Kasparian, Acting Chief,
2 Assessment Appeals Division, Executive Office of the
3 Los Angeles County Board of Supervisors; Ann Moore,
4 Chief Deputy Clerk, San Diego County Board of
5 Supervisors; Kyreen Gonzalez, Deputy Clerk of the
6 Board of Supervisors, Sonoma County; and Honorable
7 Ernest J. Dronenburg, Jr., President, California
8 Assessors' Association, and San Diego County
9 Assessor-Recorder-Clerk.

10 MR. VAZQUEZ: Thank you.

11 Ms. Evans, are you on the line and available
12 to begin?

13 MS. EVANS: Yes, Chair Vazquez.

14 MR. VAZQUEZ: Great.

15 Before we get started, though, let me just
16 make one quick correction.

17 It's my understanding Mr. Dronenburg, when
18 he spoke just a few minutes ago, he was referring to
19 the property tax deadline item, and not the item we
20 were just discussing, I guess.

21 Just for the record, if we could just note
22 that.

23 And with that, Ms. Evans, I will -- first of
24 all, let me turn it over to Ms. Evans so we can begin
25 her facilitation of the work group discussion.

26 MS. EVANS: Thank you, Chair Vazquez.

27 With your direction I would like to proceed
28 with an examination of proposed edits to the Letters

1 to Assessors 2021/002.

2 I will read the edits proposed by the
3 parties based upon the documents that have been
4 circulated and posted to the Public Agenda Notice.

5 I will then invite comments from the
6 stakeholders.

7 Our goal is to seek consensus to the extent
8 possible.

9 I will then read consensus language.

10 I appreciate your patience and the patience
11 of our stakeholders in this process.

12 I look forward to providing assistance to
13 these stakeholder discussions.

14 With your permission, Chair Vazquez, may I
15 proceed?

16 MR. VAZQUEZ: Yes, you may. And thank you
17 for that explanation.

18 MS. EVANS: Thank you.

19 Issue One before us is: "Rights of Hearing
20 Participants, Type of Hearing."

21 Sentence one:

22 "In the conduct of remote hearings, it is of
23 paramount importance that, as required by Property
24 Tax Rule 302, subdivision (a)(1), the appeals
25 board -- [inaudible] -- and given the opportunity for
26 a timely and meaningful hearing."

27 The proposed changes read as follows, and
28 then I -- once I read this into the record, I will

1 call on the various stakeholders to provide comments
2 if they have them.

3 For sentence one, it states:

4 "In -- [inaudible]."

5 I'll read the complete sentence.

6 "In the conduct of remote hearings, as
7 recognized by RTC Sections 1616(a) and 1752.4(a), it
8 is of paramount importance that, as required by
9 Property Tax Rule 302, subdivision (a)(1), the
10 appeals board ensures that all applicants are
11 afforded due process and given the opportunity for
12 timely and meaningful hearing.

13 While appear -- while appeals boards --
14 excuse me -- have discretionary authority to offer
15 only in-person hearings, based on that jurisdiction's
16 resources and local circumstances, they are
17 encouraged to offer remote hearings for
18 non-evidentiary matters and evidentiary hearings
19 eligible to be heard by an -- [inaudible] -- Section
20 163 [inaudible]."

21 [Inaudible] from CATA.

22 MR. MOORE: This is Kevin Moore.

23 MS. TAYLOR: Chairman Vazquez, this is
24 Ms. Taylor.

25 MS. COHEN: Just wanted to pop in and let
26 you know that Ms. Evans, for some unknown reason, she
27 was dropped off the call. But she's trying to get
28 back on right now.

1 MR. VAZQUEZ: Thank you.
2 And did I see -- looked like somebody from,
3 I think it was CATA, was going to speak. Was that
4 queued up, or no?
5 I see Marc Aprea's hand.
6 MR. APREA: Yes. Kevin Moore will take this
7 item up whenever it is you're ready.
8 MS. COHEN: Mr. Chair.
9 MR. VAZQUEZ: Yes.
10 Do we have Ms. Evans back on the line?
11 MS. COHEN: I'm just going to let you know I
12 am going to share my screen with Ms. Evans. So she's
13 going to hop on my laptop right now.
14 MR. VAZQUEZ: Okay.
15 MS. FLEMING: Good morning, Members.
16 This is Brenda Fleming, Executive Director.
17 Chairman, if I could ask just for a quick
18 break. I think I could assist Member Cohen and
19 Ms. Evans to get Ms. Evans set up in an environment.
20 That way Member Cohen can still be on screen
21 and participating in the discussion, if that works
22 for the Board.
23 MS. COHEN: Great. Thank you very much.
24 MS. FLEMING: All right.
25 Ms. Cohen, I'll be calling you in just a
26 bit.
27 MS. COHEN: Okay.
28 MR. VAZQUEZ: Sure. Not a problem.

1 MS. FLEMING: Just take about a three-minute
2 quick break. And if you guys could just mute your
3 mics.

4 MR. VAZQUEZ: I will pause. We'll give you
5 four minutes here.

6 MS. FLEMING: Thank you. And we can make
7 sure her network is stabilized.

8 Thank you. Hold on.

9 MR. VAZQUEZ: Thank you.

10 (Whereupon a break was taken.)

11 MR. VAZQUEZ: Is Ms. Evans ready to go?

12 MS. EVANS: Yes, Chair Vazquez.

13 MR. VAZQUEZ: Go ahead.

14 Welcome back.

15 MS. EVANS: Thank you.

16 The first issue was "Rights of Hearing
17 Participants, Type of Hearing."

18 Current LTA language, sentence one:

19 "In the conduct of remote hearings, it is of
20 paramount importance that, as required by Property
21 Tax Rule 302, subdivision (a)(1), the appeals board
22 ensures that all applicants are afforded due process
23 and given the opportunity for a timely and meaningful
24 hearing."

25 For sentence one I will read into the record
26 the language that is being proposed:

27 "In the conduct of remote hearings, as
28 recognized by RTC Section 1616(a) and 1752.4(a), it

1 is of paramount importance that, as required by the
2 Property Tax Rule 302, subdivision (a)(1), the
3 Appeals Board ensures that all applicants are
4 afforded due process and given the opportunity for a
5 timely and meaningful hearing.

6 While appeals boards have discretionary
7 authority to offer only in-person hearings, based on
8 that jurisdiction's resources and local
9 circumstances, they are encouraged to offer remote
10 hearings for non-evidentiary matters and evidentiary
11 hearings eligible to be heard by an assessment
12 hearing officer under RTC Section 1637."

13 At this time, I'd like to call on the
14 parties for comment.

15 First, we will start with the CATA
16 representative.

17 MR. AREA: Kevin, you're on mute. You're
18 still on mute, Kevin.

19 MR. MOORE: Can you hear me now?

20 MR. APREA: Yeah.

21 MR. VAZQUEZ: We're getting a little bit of
22 an echo. So I'm wondering if you're using both your
23 audio.

24 MR. MOORE: I know. My audio is through the
25 phone, because I'm having problems with my speakers.
26 So I just turned on my audio on the computer, and
27 that's why we're getting the echo.

28 MS. FLEMING: So, Mr. -- Mr. Moore.

1 This is Brenda Fleming, Executive Director.
2 Sir, if I can have you -- it's fine for you
3 to keep your telephone audio on, but what I will need
4 for you to do is make sure your volume on your
5 speaker, your laptop speaker and the microphone on
6 your laptop are both turned off.

7 So first go -- there you go.

8 And secondly, if you can go to your speaker
9 sound icon, and make sure it's also turned off. You
10 can resume -- now make sure that your phone audio --
11 so we can't hear you, sir.

12 Is your audio dialed into the Teams
13 environment?

14 So, sir, let's have you -- Mr. Moore, if you
15 can hear me? Can you hear me?

16 Okay. Let's go back to -- let's turn off
17 your phone for a second. Because we can hear you.
18 And it sounds like we were picking you up on your mic
19 on your laptop.

20 Let's have you turn your phone off or mute
21 your mic.

22 MR. MOORE: Okay.

23 MS. FLEMING: We can hear you fine. Mute
24 your mic on your phone.

25 MR. MOORE: Okay. I've done that.

26 MS. FLEMING: Okay. I need you to turn your
27 phone off.

28 MR. MOORE: Does that work?

1 MS. FLEMING: Right. Now we're picking you
2 up on your laptop mic. So let's stay in that
3 environment.

4 MR. MOORE: Okay. But it's difficult for me
5 to hear you, because my audio -- I need to hear you
6 from my phone.

7 MS. FLEMING: Okay. If you do that, sir,
8 unfortunately, we're going to have some
9 reverberation. Because you're picking up two systems
10 concurrently.

11 Would you like to have somebody else --
12 Chairman Vazquez and Members, would you like to have
13 another speaker start to present? And then we can
14 come back to member Moore, and we can assist him.

15 MR. MOORE: Well, I would prefer -- I mean,
16 I'll just have to turn my phone down, and that would
17 stop the reverberations you've indicated.

18 MS. FLEMING: Okay. So whatever you're --
19 yeah. Whatever you're doing now seems to be working.
20 So let's just --

21 MR. MOORE: Okay. I can do that right now.

22 MS. FLEMING: Let's give that a try.

23 MR. MOORE: Okay.

24 MS. FLEMING: Thank you, Mr. Moore.

25 MR. MOORE: Well, thank you for allowing
26 this opportunity to be heard on this very important
27 issue.

28 I don't pretend to be able to replace

1 Breanne Robowski. And I don't think the other two
2 gentlemen who are going to be presenting are going to
3 be able to replace her as well. I've read her
4 materials and I wholeheartedly concur with them.

5 Can I be heard okay? Am I okay?

6 MR. VAZQUEZ: Yes, you're good.

7 MR. MOORE: Okay. Good.

8 A couple points I wanted to bring out as a
9 practitioner before various Assessment Appeals
10 Boards, primarily here in Los Angeles, but really
11 throughout the state, I've appeared with the issue of
12 remote hearings.

13 It's a very -- it's a very difficult
14 situation with remote hearings with respect to AAB
15 hearings, because of the nature of what's being
16 presented.

17 In these matters, it is oftentimes, almost
18 exclusively, the burden of proof on the taxpayer.
19 And that burden of proof requires the taxpayer to
20 submit volumes of documents, often technical in
21 nature.

22 It often requires technical experts to be
23 presenting issues on valuations and presenting
24 calculations.

25 And it's very difficult to cross-examine.
26 It's very difficult to come across and to fully
27 understand what testimony is being offered.

28 This is really important. Because many of

1 these cases are appealed, and they go to the superior
2 court.

3 And not always, but probably in a vast, vast
4 majority of the cases, on appeal before a superior
5 court, we're relying on the evidence that was
6 presented at the hearing before the Assessment
7 Appeals Board.

8 If that record is not fully established,
9 there's no second opportunity to present that
10 evidence before a judge. He's going to rely on the
11 record that was established at the Assessment Appeals
12 Board.

13 So that record in complex cases or cases
14 that require significant evidentiary testimony and
15 documents is of utmost importance.

16 So for that reason, I appreciate the
17 opportunity and the seriousness with which this Board
18 is taking the issue of remote hearings, and allowing
19 this opportunity to present CATA's views, as well as
20 some of my own personal views.

21 With respect to what Ms. Evans had read, I
22 think that language is fine. As long as it's -- you
23 have to read further down with respect to the second
24 sentence and the third sentence.

25 But in and of itself, that language does not
26 present any new problems with CATA.

27 MS. EVANS: Mr. Moore, thank you.

28 I want to say for all the subsequent

1 presenters, just for efficiency and sake of time, we
2 are going through each sentence. We would like, to
3 the extent possible, if you're in agreement, if you
4 would just state for the record that you are in
5 agreement. If you are not, you can express your
6 concerns.

7 The Board certainly values your input and
8 your feedback, but we have several lines that we need
9 to get through today. And we want to make sure that
10 we certainly allow you to provide feedback, but we
11 want to use this time as efficiently as possible.

12 So thank you.

13 The next representatives -- do we have any
14 other CATA representatives, or is Mr. Moore the only
15 speaker?

16 Okay.

17 MR. VAZQUEZ: You're muted.

18 Marc Aprea, I think, wanted to say
19 something.

20 But you're muted.

21 I can't -- we can't hear you, Marc.

22 MR. APREA: Mr. Moore has addressed this
23 item, and CATA has no further comment.

24 MS. EVANS: Thank you.

25 MR. GAINES: I've got a question, if I
26 could.

27 MR. VAZQUEZ: Ms. Evans -- Ms. Evans,
28 there's a hand from Member Gaines, though. You

1 probably can't see it from your end, right?

2 MS. EVANS: Just for process, I just want to
3 say, as we go through this, we will be taking
4 questions from the Members.

5 And, Mr. Vazquez, you want me to acknowledge
6 Members, or will you acknowledge Members?

7 MR. VAZQUEZ: I'll acknowledge them, because
8 I don't know if you can see them on the screen. Or
9 can you see them on the screen?

10 MS. EVANS: I see Member Gaines' hand. I
11 just didn't think it was my ability to call on him.

12 MR. VAZQUEZ: Okay. I will go ahead.

13 Let -- let me see if he has a -- do you have
14 a comment of what's been said, Member Gaines?

15 MR. GAINES: Yes, I do. Yeah.

16 MR. VAZQUEZ: Sure. Go ahead.

17 MR. GAINES: I think what Kevin Moore
18 brought up is concerning to me. It's been concerning
19 to me through the whole process. And that is, are
20 you going to get due process in the event of a remote
21 hearing that may not be accurately depicted, and then
22 moves onto a superior court?

23 And so we don't have to get into a big
24 discussion now, but I'd like -- I'd like to hear from
25 the other participants, and also from CATA through
26 this process.

27 Because I also have concerns that were
28 raised by John McKibben in terms of people continuing

1 to delay their hearing over and over again, which
2 slows the whole process down.

3 So I would just like clarity in terms of how
4 do we speed the process up, but at the same time give
5 people the opportunity to have that public hearing,
6 especially in more complicated cases.

7 Thank you. That's it.

8 MR. VAZQUEZ: Thank you.

9 With that, Ms. Evans, if you want to
10 continue with your next speaker.

11 MS. EVANS: Yes.

12 Representative from the clerks, I believe we
13 have Tom Parker, who will be followed by
14 Marcy Berkman.

15 MR. PARKER: Ms. Evans, Members of the
16 Board, thank you for the opportunity.

17 The clerks respectfully disagree with the
18 proposed amended language in the first sentence.

19 Is it appropriate for us to offer our
20 version at this time, or is that going to be done at
21 another point in time?

22 MS. EVANS: Mr. Parker, for the record,
23 please state what you're proposing.

24 MR. PARKER: All right. Thank you.

25 First of all, as a matter of placement, we
26 would recommend that what has been identified as the
27 first sentence in the November 17th letter of the
28 State Board be -- be moved behind a new first

1 paragraph, which is currently the second sentence in
2 the November 17th letter.

3 So if you'll bear with me for a moment, what
4 we would propose as the new first sentence reads as
5 follows:

6 "In the conduct of remote hearings, it is of
7 paramount importance that, as required by Property
8 Tax Rule 302, subdivision (a)(1), the appeals board
9 ensures that all applicants are afforded due process
10 and given the opportunity for a timely and meaningful
11 hearing."

12 What we will add to follow that is:

13 "As an initial matter, this includes the
14 right to meet either remotely or in person --

15 MS. EVANS: Mr. Parker, can you just slow
16 down, because I'm trying to capture --

17 MR. PARKER: I apologize.

18 MS. EVANS: No problem.

19 Can you start over, please?

20 MR. PARKER: "As an initial matter, this
21 includes the right to meet either remotely or in
22 person, unless it is infeasible for the appeals board
23 to hold a timely hearing, under the particular
24 circumstances, using the taxpayer's preferred type of
25 hearing."

26 We would also --

27 MS. EVANS: One moment, Mr. Parker.

28 MR. PARKER: I'm sorry.

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MS. EVANS: Okay.

MS. EVANS: We would also propose striking:
"As recognized by Revenue and Taxation Code
Sections 1616(a) and 1752.4(a)."

Those references to those statutes would be
in our proposed second sentence.

The reason for our proposed language is
that, as we have testified before to the State Board,
the Assessment Appeals Board is the trial court for
property tax hearings.

Revenue and Taxation Code 1616 makes it
clear that remote hearings are the equivalent of
in-person hearings.

The State Board cannot, through LTA language
or through any other means, attempt to change what
the Legislature has decided.

There is going to be, as Mr. McKibben
alluded to, a great deal of waste of government money
if we are backlogged because taxpayers are seeking to
have only a certain kind of hearing.

The proposed remedy of time extension, a
time waiver, does not solve the problem. Especially
in jurisdictions with very large backlogs of appeals,
as well as a large number of annual appeals.

Due process is very important, as Mr. Gaines
has noted, as all Board Members have noted. Due
process applies to hearings, whether they are remote
or they are in person. And that is implicit in 1616.

1 Therefore, there is no fundamental due
2 process distinction between a remote hearing and an
3 in-person hearing, as a matter of state law. That
4 has to be respected by whatever language the State
5 Board is going to put into the LTA.

6 I would note as well that at the last Board
7 Meeting, State Board's own Legal staff agreed with
8 what I have just said about section 1616 and due
9 process regarding remote and in-person hearings.

10 So I would also offer the comment that
11 whatever the State Board does with this language, it
12 really should be consistent with its own Legal
13 Counsel's advice on property tax.

14 MS. EVANS: Thank you, Mr. Parker.

15 Ms. Berkman.

16 MS. BERKMAN: Thank you.

17 This is retired Deputy County Counsel,
18 Marcy Berkman.

19 I apologize for not having a camera. My
20 Internet connection here isn't strong enough to hold
21 the call very well if I do that.

22 My overarching approach to the LTAs, coming
23 as someone who worked with the appeals board for many
24 years, is that the more succinct and to the point we
25 can keep them, the better.

26 I think a lot of the language throughout due
27 process is unnecessary. Because while due process
28 itself is necessary, 1616(a) of the Revenue and

1 Taxation Code already tells us we can have remote
2 hearings.

3 And I think it's most useful to the appeals
4 board and the clerks to focus specifically on how we
5 go about that.

6 My suggestion would be at the beginning of
7 the first sentence to just change "as recognized by"
8 to "as authorized by."

9 Because the two-sided RTC provisions
10 authorize the remote hearings.

11 So it would read:

12 "In the conduct of remote hearings,
13 authorized by RTC Section 1616(a) and 1752.4(a)."

14 With respect to the new language that starts
15 with the word "while," while I understand what both
16 CATA and Los Angeles are striving at, I actually
17 think that that entire section of language is
18 redundant and doesn't necessarily clarify anything
19 for anyone.

20 The board's -- whether it's the Board of
21 Supervisors making the rules, or the Assessment
22 Appeals Boards having been delegated that authority
23 by the Board of Supervisors, innately have the
24 discretion to determine for each jurisdiction what
25 works best for that jurisdiction's Assessment Appeals
26 Board in terms of their ability to provide and handle
27 remote hearings and in-person hearings.

28 And so I would suggest we don't need that

1 new language at all.

2 However, to the extent it is there, I do
3 have a concern about including the language about
4 hearings eligible to be heard by an assessment
5 appeals hearing officer.

6 And where that concern stems from is in
7 Santa Clara County, where I was the board counsel
8 until I retired in July, neither of our legal hearing
9 officers and neither of our value hearing officers
10 felt comfortable with the remote hearing process.

11 All of them, we were truly, truly blessed to
12 have them. Really, really excellent at their jobs.
13 And they had years of experience. And possibly
14 because they had years of experience, rather than
15 being millenials, they did not feel as comfortable
16 with the remote hearing process.

17 They much preferred to be in the room where
18 they could see the witnesses, and where they could
19 have the papers right in front of them, and not be
20 being distracted by multiple things going on on a
21 computer screen at the same time.

22 And my concern about this new language is
23 that it would feel like it was sort of pushing
24 jurisdictions to offer remote hearings in the hearing
25 officer context.

26 And indeed in legal hearings, they're often
27 very, very complicated these days with trusts, issues
28 that deal with trusts, and the trusts that LLCs or

1 partnerships within the trusts. And it could be very
2 paperwork intensive and very complicated.

3 And my concern would just be that if we're
4 encouraging in the LTA that you offer remote hearings
5 to hearing officers, that that's sort of pushing the
6 counties into doing that, or pushing taxpayers into
7 making argument, that says, you know, the State Board
8 of Equalization prefers that you do this.

9 And so my first choice would be to omit new
10 language entirely.

11 And, again, I don't currently speak for the
12 county. I am retired. So I just speak on my
13 experience.

14 And my second choice would be to have
15 language that would say something to the effect of:

16 "While appeals have discretionary authority
17 to offer only in-person hearings, based on that
18 jurisdiction's resources and local circumstances,
19 they are encouraged to offer remote hearings for
20 non-evidentiary matters."

21 And here would be the new suggestion:

22 "And such other matters as the county board
23 of supervisors or Assessment Appeals Board deems
24 appropriate."

25 Thank you.

26 MR. VAZQUEZ: Thank you.

27 Ms. Evans, while you're doing that, I know
28 there's two hands up. And I know Mr. Aprea has been

1 having his hand up.

2 Let me call on Mr. Aprea.

3 MR. APREA: Mr. Chair, thank you.

4 MS. EVANS: Chair Vazquez.

5 MR. VAZQUEZ: I'm sorry. Go ahead,
6 Ms. Evans.

7 MS. EVANS: If I -- if I may, can I have a
8 minute? Because everybody speaking is just more
9 comments that I'm trying to capture.

10 MR. VAZQUEZ: I was going to ask you, are
11 you caught up, or should we give you a minute?

12 MS. EVANS: Give me a minute.

13 Ms. Berkman, just so I can capture the final
14 portion of your recommendation, such other matters,
15 the county board of supervisors, or the appeals
16 board, can you complete that?

17 MS. BERKMAN: Or Assessment Appeals Board
18 deems appropriate -- or deem appropriate.

19 MS. EVANS: Thank you.

20 MS. BERKMAN: Thank you.

21 MR. VAZQUEZ: Thank you.

22 Go ahead, Mr. Aprea.

23 MR. APREA: Mr. Chair, Members of the Board,
24 and staff, I would like to request, since it appeared
25 Mr. Parker was reading from some language that they
26 had prepared, it would be much easier for us to
27 understand what it is he's proposing if he could
28 submit that language through the chat, or otherwise

1 submit it, and then have staff not only have it, but
2 present it to others on this call.

3 And I think that that would make it a lot
4 easier for us to respond on this call, as well as
5 with any follow-up to this meeting.

6 MR. VAZQUEZ: Thank you.

7 And I see a hand from Mr. Moore. Is that
8 still a good one?

9 MR. MOORE: Yes. Yes, it is.

10 MS. EVANS: Mr. Chair.

11 MR. MOORE: [Inaudible] working [inaudible]
12 I'm here.

13 MR. VAZQUEZ: Yes.

14 Just one minute, Mr. Moore.

15 Ms. Evans, go ahead.

16 MS. EVANS: Before we hear from Mr. Moore,
17 I'm just wondering if Ms. Fleming can speak to how
18 we're going to accept language through this
19 discussion process.

20 I was under the impression that all language
21 had been previously submitted. And so as new
22 language is being offered, is the goal to allow folks
23 to submit that language? And in what process?

24 MS. FLEMING: Thank you, Members.

25 This is Brenda Fleming, Executive Director.

26 And I'm going to just open my Teams access
27 to me also to confirm this.

28 Members, to the extent that you have new

1 material that's going to be submitted for this agenda
2 item, the appropriate process would be for that
3 e-mail -- that information to be e-mailed to our
4 Board Proceedings Division, to the attention of Board
5 Proceedings. And the information is actually on our
6 website.

7 You can also send to Cathy Taylor, who is
8 the Board Proceedings Chief, and cc me.

9 The process, then, would be that we have to
10 attach that information to our PAN, make it available
11 as soon as we can, in order for the public to have an
12 active and appropriate level of participation in this
13 discussion.

14 So if there's new material that needs to be
15 submitted, please e-mail it. For expediency, I'll
16 just have you send it to Cathy Taylor, with a cc to
17 me, and we'll get that attached to PAN as soon as
18 possible.

19 It would not be appropriate to have that
20 information included in our chat environment, because
21 that environment -- the chat portion of the Team's
22 environment is not a part of the public domain. And
23 so that's not -- that's not a part of the public
24 meeting.

25 So, again, please submit that information to
26 Cathy Taylor, cc Brenda Fleming. And the information
27 is on our website.

28 Thank you, Members.

1 MR. VAZQUEZ: Thank you.

2 Mr. Moore.

3 MR. MOORE: Thank you.

4 I appreciate Ms. -- Mr. Parker's concern.
5 Which is completely legitimate regarding backlogs.
6 Although, I don't know how compelling that interest
7 is.

8 Because most taxpayers are given a
9 supplemental tax bill that they have to pay, lest, if
10 they lose, they're going to have a large tax bill to
11 pay. The vast majority, certainly of my clients, pay
12 their supplemental tax bills through the appeals
13 process, and are not seeking to delay their hearing
14 before the Assessment Appeals Board.

15 In fact, to the contrary, they want their
16 hearings done as soon as possible, and have these
17 matters resolved.

18 But, nonetheless, I mean, obviously that's a
19 legitimate interest in having -- not creating
20 backlogs.

21 And like in all legal cases where you have
22 competing interests, and here the competing interest
23 is due process of law, creating a record that needs
24 to be recognized on -- at a superior court level,
25 that, too, is a legitimate interest I would argue.
26 And might even be more of an interest, or certainly a
27 compelling interest than creating a backlog.

28 But the two interests have to be balanced.

1 And the proposed language that the Board has
2 recommended sets the stage for that balancing of the
3 interest.

4 So no one is suggesting -- and I don't
5 believe CATA is by any means -- that there just be a
6 blanket rule that a taxpayer can say, "I want an
7 in-person hearing as opposed to a remote hearing."
8 It's establishing the backdrop for certain taxpayers
9 to have the right to an in-person hearing if certain
10 criteria is met.

11 I mean, certainly where there's
12 non-evidentiary matters, or lesser amounts involved
13 pursuant to 1637. And some of the other criteria in
14 that, I think, would be sufficient to have a remote
15 hearing.

16 But many of these complex cases need to have
17 in-person hearings. And the taxpayers need to have
18 the right to do that.

19 The proposed language Mr. Parker has
20 proposed is basically just saying that, at the
21 Board's discretion, it's either going to be remote,
22 or it's either going to be in person. And it will be
23 their discretion and not the taxpayers.

24 And that's not recognizing the two competing
25 interests, nor is it balancing the two competing
26 interests.

27 I would also have everybody read 1616 of the
28 Revenue and Taxation Code. It by no means requires

1 Assessment Appeals Board to have remote hearings. It
2 just says that nothing shall prohibit an Assessment
3 Appeals Board from conducting remote hearings.

4 And what this Board is doing on -- in a very
5 great sufficient, efficient way, is they're trying to
6 provide guidelines for when an Assessment Appeals
7 Board is going to hold remote hearings, and under
8 what circumstances they can or should hold remote
9 hearings as opposed to in-person hearings.

10 Based on that, I would submit once again
11 that the proposed language should be -- should be
12 agreed to.

13 MS. EVANS: Mr. Moore, thank you.

14 Chair Vazquez, I think there's one Member
15 that has their hand up.

16 But I think we're in a position that we can
17 move forward on one. And I'd like to make a
18 statement and get some feedback.

19 But I do see Mr. Gaines' hand up.

20 MR. VAZQUEZ: Yes. Let me -- let me see
21 what Member Gaines -- this is in regards to what
22 we're discussing now, Member Gaines?

23 Sure. Go ahead.

24 MR. GAINES: Yeah. It's more of a process
25 question.

26 I'm just trying to get clarity on what we're
27 doing today. Because we have all these proposed
28 amendments. We have disagreement on certain areas in

1 red. But we also have new language coming forward
2 that has to be presented in the form of an e-mail,
3 and I guess distributed and put in a PAN for a future
4 meeting.

5 So I'm just trying to figure out our end
6 point. And are we just trying to go through all the
7 amendments today? And then we'll accept new language
8 that would be in a PAN for a future meeting?

9 Is that what's -- is that our goal for
10 today? I'm --

11 MS. EVANS: Mr. Gaines.

12 MR. GAINES: Yes.

13 MS. EVANS: Leading this discussion, the
14 goal was to identify the consensus items. Very
15 similar to what we did the very first time, if you
16 recall.

17 And so where we found consensus, we agreed
18 that that was an area that we could establish
19 consensus on, move forward.

20 If we're unable to establish consensus, then
21 we would table that issue either for another Board
22 Meeting, or potentially an expedited interested
23 parties process.

24 MR. GAINES: Okay. So we're just refining.
25 We continue to refine the language in this, hopefully
26 to the point where we have an agreement that
27 everybody's comfortable with, an LTA.

28 MS. EVANS: Yes, sir.

1 MR. GAINES: Okay. Thank you.

2 MS. EVANS: Chair Vazquez, I think --

3 MR. VAZQUEZ: I see Marc Aprea back on the
4 queue here.

5 MR. APREA: Yes.

6 And to the point of, you know, seeking to
7 find consensus or areas of disagreement, I think I
8 just -- and that it is not what -- I think it is
9 evident from the discussion that we are not arriving
10 at a consensus on that item.

11 MS. EVANS: Marc, I would respectfully
12 disagree.

13 I want to ask the parties that Ms. Berkman
14 certainly provided an option that we haven't received
15 feedback on.

16 She proposed that in the very first sentence
17 that we revise the beginning to read:

18 "In the conduct of remote hearings,
19 authorized by RTC Section 1616(a) and 1752.4(a)."

20 And possibly delete the last sentence.

21 I want to ask the parties, first, CATA, is
22 that something you could embrace for purposes of
23 consensus?

24 MR. MOORE: So that would be -- I have -- I
25 have no problem with the use of the word "authorized"
26 as opposed to "as recognized."

27 And when you say -- or when Ms. Berkman
28 suggested deleting the last sentence, that was the

1 last proposed sentence that was --

2 MS. EVANS: Yes.

3 And she provided -- Mr. Moore, she provided
4 two options.

5 One was to completely eliminate the last
6 portion of that section. Basically, stating from her
7 perspective, she thought it was redundant, and that
8 the Board of Supervisors can determine by
9 jurisdiction their discretion in that space.

10 Or, she indicated -- and I'm going to read
11 what I've captured.

12 And, Ms. Berkman, if it is in any way not
13 accurate, please feel free to provide comment.

14 She said that -- leave that section as is.
15 And then when you get to the end of that section,
16 starting with "non-evidentiary matters," as in the
17 initial matter, this includes the right to meet
18 either remotely or in person unless it is in the --
19 hold on one sec.

20 MS. BERKMAN: If you would like me to repeat
21 my suggestion for there.

22 It would be for non-evidentiary matters and
23 such other matters as the county board of supervisors
24 or Assessment Appeals Board deems appropriate.

25 MS. EVANS: Thank you, Marcy. I was looking
26 at some other language. I now see it. Thank you so
27 much.

28 Is that possibly an option that CATA could

1 embrace?

2 MR. MOORE: Respectfully, I don't think
3 so.

4 MS. EVANS: Okay.

5 MR. MOORE: The reason being is that it
6 gives the board -- it gives the Assessment Appeals
7 Board the total discretion to determine whether
8 they're going to have an in-person hearing. And
9 that's what we're trying to get away from.

10 We're trying to set some standards. We're
11 trying to balance these competing interests and offer
12 the taxpayer the ability, when appropriate, to have
13 an in-person hearing.

14 MS. EVANS: Appreciate it, Mr. Moore.

15 Tom Parker, any comments?

16 MR. PARKER: This is -- this is Thomas
17 Parker on behalf of the clerks.

18 I -- I believe, tentatively, that the clerks
19 could go along with the language proposed by
20 Ms. Berkman from its view.

21 However, we do know what Mr. Moore has just
22 indicated regarding CATA's position on that language.

23 MS. EVANS: So based on CATA's comments, we
24 will state that we have no consensus on this section?

25 I guess I will ask the parties, is it worth
26 agreeing that we at least have consensus on the first
27 sentence as proposed by Ms. Berkman of that section?

28 MR. APREA: Could you repeat the language of

1 the first -- that you're referring to please?

2 MS. EVANS: The beginning would read:

3 "In the conduct of remote hearings,
4 authorized by RTC Section 1616(a) and 1752.4(a)," is
5 the only change.

6 Sounds like Mr. Parker said that would be
7 appropriate. I'm just curious if CATA's in
8 agreement.

9 MR. APREA: May I -- may I ask a question as
10 to the interest, or what was the -- to repeat -- I
11 know you've stated it, but why the word "recognized"
12 is versus "authorized"? Why the -- why the
13 preference is "authorized"?

14 MS. EVANS: Ms. Berkman.

15 MS. BERKMAN: Those two code sections are
16 authorizing sections, and they deal with the ability
17 to conduct remote hearings. Whereas, before they
18 were enacted, there was no statutory recognition of
19 that.

20 And that is the gist of those sections,
21 rather than those sections being about the paramount
22 importance of how they're conducted.

23 So it's just -- since we're inserting in a
24 positive clause about those code sections. It's
25 saying, "In the context of remote hearings," and the
26 positive clause essentially says, "which are
27 authorized by these code sections." And then we go
28 on to continue the rest.

1 I'm an appellate attorney and a literature
2 major, and so I try to be precise.

3 MS. EVANS: Thank you.

4 MR. APREA: I would just respond again to
5 echo that which Kevin relayed earlier, that this is
6 not a authorization, but rather it is stating that
7 there's nothing to be construed to prohibit a county
8 board from conducting hearings remotely.

9 So as opposed to, you know, section 1616(a)
10 says that this chapter is authorizing a county board
11 to conduct remote hearings.

12 MS. EVANS: Thank you, Mr. Aprea.

13 Mr. Parker, I see your hand up.

14 MR. PARKER: Yes.

15 I would just say, in response to that point
16 raised by both Mr. Moore and Mr. Aprea, that really
17 the net and practical effect of this proposed
18 language that CATA would seek to have included would
19 have the net effect of prohibiting Assessment Appeals
20 Boards from any possibility of remote hearings,
21 except for under the circumstances date -- as stated
22 in this LTA.

23 So that's a kind of a backdoor way of
24 changing 1616 by saying you really can only do remote
25 hearings in these stated circumstances, but not in
26 the others.

27 And so they really are adding gloss to
28 Legislature, which is not appropriate.

1 Thank you.

2 MS. EVANS: Thank you, Mr. Parker.

3 Chair Vazquez, I see --

4 MR. VAZQUEZ: I think still has his hand up
5 too.

6 Mr. McKibben?

7 MS. EVANS: Yeah. And I'm just wondering --
8 and I want to ask, Chair, we clearly have no
9 consensus in this area. Do we want --

10 MS. VAZQUEZ: I was just gonna ask if -- do
11 we want to move on?

12 MS. EVANS: I would recommend that. But I
13 would defer to you.

14 There are hands up. But I think we've heard
15 from the parties.

16 I see Mr. McKibben.

17 MR. VAZQUEZ: I think -- I think that's a
18 correct assessment. And I was seeing heads nodding
19 as well.

20 So do you want to just move on to the next
21 piece?

22 MR. MCKIBBEN: Yes, Mr. Chairman. I agree.
23 We probably need to move on. I don't think there is
24 an agreement here.

25 I did want to reinforce the comments about
26 the reference to 1637. It relegates remote hearings
27 to handling only non-evidentiary matters, and matters
28 of -- that are just residential property and

1 property -- commercial properties of very little
2 value.

3 The -- the dollar threshold in that section,
4 I think you'd be hardpressed to find a commercial
5 property that's valued at under \$500,000.

6 MS. EVANS: Thank you.

7 MR. VAZQUEZ: Thank you.

8 Ms. Evans, what I was thinking, you know, we
9 just got some new information also submitted. Why
10 don't we just kind of move on. Table that. Give
11 people an opportunity to kind of take a look at that,
12 and we could revisit it later.

13 MS. EVANS: I think, Ms. Fleming, were you
14 stating we were going to review that language for
15 discussion today?

16 MS. FLEMING: So it's -- it's the Board's
17 pleasure.

18 So if there's material that is to be
19 submitted today, it can be submitted through the
20 process that I requested.

21 We would have to read that as -- for
22 consideration today, we would have to read that into
23 the record.

24 Similar process to the public comment. We
25 would make a reading of that material. We would also
26 distribute it electronically for others. But we
27 would have to read it into the record.

28 It would be up to the Board if you feel like

1 that's satisfactory time to consider the matters and
2 the material.

3 Or if you want to table those items to give
4 more time and consideration of it, it could be
5 deferred or tabled until the next -- to the next
6 meeting, to the December meeting.

7 MS. EVANS: Chair, maybe, as we go --

8 MR. VAZQUEZ: That's -- that's what I was
9 kind of thinking, Ms. Evans.

10 Because I know you have several pieces
11 there. And I'm looking at some heads nodding that
12 that might be the most appropriate to give people a
13 little bit of time to take a look at it.

14 MS. EVANS: Thank you.

15 Okay. Well, let's go to the second
16 sentence.

17 And maybe I'll state to the parties for
18 clarification, because of the nonconsensus on
19 sentence one, does it make sense to even entertain
20 sentence two and sentence three? Because they're
21 directly correlated.

22 First, CATA.

23 MR. MOORE: Yes, Ms. Evans. That's exactly
24 what I was thinking.

25 I mean, if we're not gonna -- I mean,
26 we're -- we're -- it's not language that we are in
27 disagreement on, it is really the underlying premise
28 behind all of this, is whether to give certain

1 taxpayers their due process rights through an
2 in-person hearing.

3 And that's what sentence one's about, that's
4 what sentence two's about, and that's what sentence
5 three's about.

6 So without some kind of understanding or
7 agreement on -- on that broad issue, I don't think
8 going to these specific issues here in sentence two
9 and three would -- would yield any results.

10 MS. EVANS: And, Mr. Parker.

11 MR. PARKER: I would agree with most of what
12 Mr. Moore has said.

13 The second sentence is inextricably part of
14 the first sentence in terms of concept and impact.
15 And if we don't agree on the first, we're not going
16 to agree today on the second. So I would -- I would
17 agree with that.

18 I would say on the third sentence that there
19 is some agree -- there is possibly some agreement in
20 my view --

21 MS. EVANS: Mr. Parker.

22 MR. PARKER: -- on the third sentence. But
23 I think that's worth at least a brief exploration to
24 see if I'm correct or not.

25 MS. EVANS: Ms. -- thank you, Mr. Parker.

26 Ms. Berkman.

27 MS. BERKMAN: Thank you.

28 I think that I view that first sentence as

1 introductory. I think it's worth going through the
2 remaining sentences.

3 I recognize that as an overall, you, CATA
4 and Los Angeles, are at odds. And that CATA wants to
5 be able to say, "Due process requires you give us a
6 in-person hearing if we want one."

7 And Los Angeles wants to be able to say,
8 "Due process is due process. And if we only offer
9 remote hearings, that's fine, and does not violate
10 due process."

11 From my personal perspective, the statute
12 authorizes a jurisdiction to conduct remote hearings
13 if it wants to. And juris -- whether due process has
14 been afforded in the case, it's going to work out in
15 a case-by-case basis.

16 But given the existence of 1616 and
17 1752.4(a), one can't circumscribe by regulation
18 whether due process requires you to have -- or by
19 LTA, it requires you to have all in-person hearings
20 or requires you to have remote hearings.

21 I don't think it's appropriate for a
22 taxpayer to require a jurisdiction to provide an
23 in-person hearing if they don't for that type of
24 hearing, or to require a remote hearing if the
25 jurisdiction doesn't for that hearing.

26 Just like in the superior courts, in the
27 appellate courts, it is the court -- here, the AAB --
28 to make that decision.

1 I don't think any amount of time and any
2 amount of meeting and going over details is going to
3 bring Los Angeles and CATA to consensus on that
4 issue.

5 And I think that the best thing to do is to
6 revise the LTA, and a general approach and deal with
7 specific issues.

8 You know, for example, a sentence or two
9 farther on, we go into the rules regarding
10 postponements, and documents, and things like that.

11 And I think that the LTA can be revised in
12 that respect. And I think revisions can be made to
13 sentence two and three.

14 And I don't think any amount of time is
15 going to bring LA and CATA into agreement on the main
16 dispute between whether CATA gets to demand an
17 in-person hearing, or Los Angeles can say, "We're
18 only holding remote hearings."

19 MS. EVANS: Thank you, Ms. Berkman.

20 MR. VAZQUEZ: I think Mr. McKibben wanted to
21 weigh in here.

22 MS. EVANS: Mr. McKibben.

23 MR. VAZQUEZ: But you're -- you're muted,
24 though.

25 MR. MCKIBBEN: Sorry about that.

26 MR. VAZQUEZ: Go ahead.

27 MR. MCKIBBEN: Should know better by now.

28 I agree with a lot of what Ms. Berkman has

1 to say. But one thing I don't want to have remain is
2 the misconception that this is a disagreement between
3 CATA and Los Angeles County.

4 It's a disagreement between the Clerks
5 Association, yes. Certainly Los Angeles County has
6 strong feelings in that regard.

7 But we're trying to come to you with as
8 close as we can come to a consensus of the clerks who
9 are in active involvement in this process.

10 So it's all -- the issues that we're
11 discussing is a concern to San Diego County, to
12 Los Angeles County, to Sonoma County, and other
13 counties that have weighed in on this.

14 The other thing I want to say is that I
15 haven't had a conversation, either in writing or
16 orally, in our meetings and exchanges between and
17 among the clerks where the clerk is saying they're
18 not going to make every reasonable effort to try to
19 accommodate a taxpayer's request for a certain format
20 of hearing.

21 That's something we're all going to do.
22 Even the evil Los Angeles County is going to do that
23 to the extent that we can. It's a reasonable thing
24 to do.

25 But you have to remember that there are two
26 parties in this process. What if we have a situation
27 where the taxpayer wants one format, and the assessor
28 insists on the other format? We flip a coin? Or is

1 it going to be the judgment call of the board or the
2 clerk?

3 And that's really all.

4 MS. EVANS: Thank you so much. Thank you so
5 much, Mr. McKibben.

6 Based on the comments that were made by the
7 various members of the work group, we're going to
8 move to sentence three.

9 And I'm just going to ask, for the record,
10 is there items in sentence three that CATA is in
11 agreement with as delineated in the document that is
12 before us?

13 And I guess I should ask for clarification.

14 Ms. Fleming, Mr. Nanjo, should I read this
15 entire section into the record, or can we just
16 discuss?

17 MS. FLEMING: Yes. For the record, so the
18 material is attached to PAN.

19 But since we're in the portion of the
20 discussion, just as though they were a speaker here,
21 it would be appropriate to read the language into the
22 record. Best practice.

23 MR. NANJO: I would concur.

24 Thank you.

25 MS. EVANS: Thank you.

26 Third sentence:

27 "Participants may, as a general matter,
28 reject a remote hearing and receive a postponement

1 until an in-person hearing is available, or may
2 reject an in-person hearing and receive a
3 postponement until a remote hearing is scheduled,
4 provided that the local appeals board offers remote
5 hearings.

6 Therefore, if an appeals board does not or
7 cannot schedule a remote hearing or an in-person
8 hearing as requested by the participant, the
9 participant may avail themselves of postponement of
10 the hearing in accordance with Rule 323, provided
11 that the applicant signs a written agreement to the
12 extent -- to extend and toll indefinitely the
13 two-year limitation period provided in RTC
14 Section 1604, subject to termination of the agreement
15 by 120-days written notice by the applicant.

16 Postponement requests which do not
17 procedurally comply with Rule 323, both 'of right'
18 and discretionary, need not be granted by the appeals
19 board, provided that the appeals board, based on all
20 the circumstances, finds that the requesting party
21 could have complied with Rule 323, had the required
22 statutory and regulatory advance notice of the
23 hearing, and cannot provide a reasonable, factual
24 basis for the noncompliant postponement or
25 continuance requests.

26 Health concerns stemming from the COVID-19
27 pandemic, as well as any publicly-declared state of
28 disaster or state of emergency shall constitute good

1 cause for a postponement pursuant to the provisions
2 of under Rule 323, provided that the applicant signs
3 a written agreement to extend and toll indefinitely
4 the two-year limitation period, provided in RTC
5 Section 1604, subject to termination of the agreement
6 by 120-days written notice by the applicant.

7 Any applicant-disclosed medical information
8 voluntarily provided to the appeals board must be
9 treated and maintained appropriately as required by
10 HIPAA and other relevant statutes and regulations."

11 We will start first with CATA.

12 Are there any items in this area that you
13 are in agreement with as it relates to the proposed
14 changes?

15 MR. MOORE: Thank you, Ms. Evans.

16 That was a lot -- a lot to read in. It was
17 a pretty long sentence. It's broken down into
18 several paragraphs.

19 Certainly the gist, the concept of the third
20 sentence, as read into the record, is certainly along
21 the lines of what CATA would like to see.

22 It provides the taxpayer the right to have
23 an in-person hearing. And, when necessary, that
24 hearing can be postponed. And it puts the burden on
25 the taxpayer that he's going to have to waive the
26 two-year rule if he's going to postpone, if that's in
27 the -- in the record.

28 And then of course there's a balancing act

1 to that, which is that he can terminate -- he or she
2 can terminate that with 120-days notice, which I
3 think is fair. So I would have to confer with
4 Mr. Aprea.

5 But just as a general concept, these -- the
6 sentence is certainly along the lines of what CATA
7 would like.

8 MS. EVANS: So, Mr. Moore, if I may, there
9 are one, two -- basically three basic sections in
10 this third sentence.

11 Is CATA comfortable with the first section?
12 Is that an area of consensus for you as drafted and
13 proposed?

14 MR. MOORE: I think that's -- that's clear.
15 I'll defer, or at least would like to hear
16 from Mr. Aprea.

17 But this is certainly something that I think
18 is acceptable.

19 MS. EVANS: Mr. Aprea, can you speak to the
20 first section of that area? Is CATA in consensus?

21 MR. APREA: I -- I would agree with
22 Mr. Moore as it relates to that first paragraph, yes.

23 MS. EVANS: What about the second?

24 MR. MOORE: I'm looking at where -- where
25 there are differences, so that I can comment
26 appropriately.

27 Just give me a moment, please.

28 My sense is that it's okay. I'm trying to

1 really decipher the meaning of it.

2 What it seems to be saying is that if a
3 postponement is going to be requested because an
4 in-person hearing is requested, and that in-person
5 hearing can't be held within the two-year limit, that
6 the appeals board could deny that request under
7 certain circumstances as stated in this.

8 I'm -- I'm trying to make sure that that's
9 what it says.

10 MS. EVANS: While CATA is reviewing section
11 two, and then I would recommend that -- at section
12 three, that references HIPAA compliance, I will go to
13 Mr. Parker, representing the clerks, and ask the same
14 question.

15 Mr. Parker, section one, section two,
16 section three, is there -- are the sections as
17 delineated something that the clerks could agree to?

18 MR. PARKER: I believe the clerks could
19 agree to what you're calling the first section.

20 And the second section, the clerks, I
21 believe, could also agree with the intent. Of
22 course, as Mr. Moore noted in his comment, being that
23 there are circumstances where an untimely
24 postponement or continuance request need not be
25 granted by the appeals board panel.

26 I hope that helps the analysis of Mr. Moore
27 and Mr. Aprea on that point.

28 And absolutely, the clerks can definitely

1 agree to the third section regarding any
2 applicant-disclosed medical information.

3 We believe that to be a statement of black
4 letter law regarding health information that is
5 submitted to an AAB.

6 MS. EVANS: Thank you, Mr. Parker.

7 Ms. Berkman, any comments?

8 MS. BERKMAN: Thank you.

9 As to the first paragraph under this
10 section, I'm in agreement with the language.

11 One thing I'd like to point out of potential
12 concern is some Assessment Appeals Boards may only
13 offer remote hearings for certain types of cases, or
14 only for certain panels.

15 For example, some members may be comfortable
16 with remote, and others may not. And I would just
17 hate in the future for anyone to argue, you know,
18 "Hey, you order remote hearing -- you authorize
19 remote hearings for prehearing conferences, or for
20 this hearing officer, and I'm not going to let you
21 put a hearing until my particular board gives me a
22 remote hearing."

23 So that's just a concern of mine. But you
24 do have my consensus on the paragraph.

25 On the second paragraph, the one that
26 pertains to postponement requests, my concern with
27 the paragraph, it feels to me to be long and
28 unwieldily in perhaps fomenting future disputes where

1 not necessary in order to effectuate its purpose.

2 My suggestion would simply be to say:

3 "Postponement requests, which do not
4 procedurally comply with Rule 323, need not be
5 granted by the appeals board," full stop.

6 Because they already have that authority.
7 And I think going into the full detail on that is
8 just potentially raising future problems.

9 So I could live with this language, but my
10 preference would be just full stop where I suggested.

11 With respect to the portion about HIPAA,
12 HIPAA is spelled incorrectly. It's H-I-P-A-A. And
13 so if that language stays, the spelling of HIPAA
14 needs to be corrected.

15 And then two small suggestions. The first
16 one is simply grammatical for the sake of clarity.

17 And my suggestion there would be to state:

18 "Health concerns, comma, whether stemming
19 from the COVID pandemic or from other
20 publicly-declared state of disaster or state of
21 emergency," comma.

22 Just because I think that without making any
23 substantive change reads more clearly and prevents
24 any ambiguity.

25 And then --

26 MS. EVANS: Ms. Berman.

27 MS. BERKMAN: Yes.

28 MS. EVANS: Where would you amend health

1 concerns into that sentence?

2 MS. BERKMAN: It would be:

3 "Health concerns, comma, whether stemming
4 from the COVID-19 pandemic or from another
5 publicly-declared state of disaster or state of
6 emergency," comma.

7 So that would basically be saying health
8 concerns, and these are the situations in which they
9 would arise, and the sentence would go on.

10 So it's not changing the meaning. I think
11 it's just making it less ambiguous.

12 MS. EVANS: I'm just not sure if I'm
13 following you.

14 The sentence as currently drafted says:

15 "Any applicant-disclosed medical information
16 voluntarily provided --

17 MS. BERKMAN: Oh, I'm sorry. I think I'm
18 slightly uphill from where you are.

19 It's looking under the third sentence.
20 There's the paragraph that talks about postponements.

21 MS. EVANS: Oh, you're in that section,
22 section two.

23 MS. BERKMAN: -- in this regard. Yeah.

24 MS. EVANS: Got it.

25 MS. BERKMAN: Yeah. So the health concerns
26 there.

27 And then getting down farther into this
28 portion about HIPAA, by law, the county and the

1 Assessment Appeals Boards are bound by HIPAA,
2 regardless of whether it's mentioned in the LTA or
3 not.

4 And the clerks, at least in Santa Clara
5 County, the clerks in the appeals board where I
6 worked, worked exceedingly hard to ensure applicants
7 never gave us any confidential health information.

8 Because, by nature, the Assessment Appeals
9 Boards' files are public, which is very different
10 from just about every place else in the county.

11 And so, for example, if someone handed us
12 evidence at a hearing that had health information or
13 a social security number in it, we would hand it back
14 and ask them to please redact it, or take it out of
15 their exhibit before they gave it to us. And
16 explain, you know, otherwise it's in the files, and
17 we have to protect it. But it's safest for you if
18 it's never in the files at all.

19 And my fear is that if we include this
20 language about HIPAA, then it is then encouraging
21 people to submit that information.

22 And then the clerks are having to search,
23 sometimes hundreds of pages of documents to find it,
24 redact it, separate it out, put it in a field file.
25 Which is not something that is normally done with
26 assessment appeals files. They are public record.
27 Anyone can come in and get them.

28 And so whether or not this language is here,

1 by law, nevertheless, counties must protect the HIPAA
2 information.

3 And my concern is that including this
4 language will encourage people to submit detailed
5 medical information, which they otherwise would
6 not.

7 And really it's sufficient for an applicant
8 to say "for medical reasons." And we don't need to
9 know any more than that.

10 And so that would be my suggestion, would be
11 eliminate that. Because I don't think it serves a
12 function, and I think it carries a risk. Of course
13 the counties will protect HIPAA.

14 But if you do leave it in, the spelling
15 needs to be corrected to H-I-P-A-A.

16 Thank you.

17 MS. EVANS: Thank you, Ms. Berkman.

18 I just have a few comments for the work
19 group members.

20 It sounds like we are in consensus -- excuse
21 me -- for -- I've divided this into three sections
22 for discussion purposes.

23 We are in consensus for the first section,
24 conceptually, the second section.

25 And then Ms. Berkman just offered some
26 comments about the reference to HIPAA.

27 And just want to ask the work group members,
28 is that something we still want to keep in, or have

1 you at all been influenced by her comments?

2 Starting first with CATA. And just that
3 question.

4 Have you been influenced by her comments?

5 MR. APREA: Go ahead, Kevin.

6 MR. MOORE: On the HIPAA issue?

7 I would just keep it in. I don't think it's
8 gonna encourage anybody.

9 And I think, you know, it just reinforces
10 what people may not know, that that information is to
11 be held privately.

12 I would agree that [inaudible] --

13 MS. EVANS: Thank you, Mr. Moore.

14 Mr. Parker.

15 MR. MOORE: -- [inaudible] and I don't think
16 an assessor's office is necessarily going to ask for
17 specific documentation of that.

18 But to the extent it's provided, I think
19 it's incumbent upon -- on the people handling the
20 document to maintain its privacy.

21 MS. EVANS: Thank you, Mr. Moore.

22 Mr. Parker.

23 MR. PARKER: The clerks, as previously
24 stated, are all right with the language.

25 But Ms. Berkman also makes an excellent
26 point about the lack -- the wisdom, or lack thereof,
27 of discussing the topic at all.

28 And if the State Board were to not include

1 that language at all in the LTA, we would not
2 object.

3 MS. EVANS: Thank you.

4 So for purposes of sentence three, I'd like
5 to make a recommendation and see if the work group
6 members would be amenable to that.

7 Since we have consensus on section one, and,
8 conceptually, the objective of section two is
9 something collectively we want to achieve, are you
10 comfortable with providing the Executive Director and
11 her team the authority to draft language to achieve
12 the collective goal, and agree that we are -- and
13 agree to allow the team to do that?

14 And it would put us in a position that
15 sentence three, the staff could at least begin a
16 process to finalize.

17 First, Mr. Moore.

18 MR. MOORE: Maybe I am adding a little
19 levity to the situation here. But I don't understand
20 how we can be in disagreement on sentence one and
21 two, and be in agreement on number three. I feel
22 like I'm missing something. And I certainly don't
23 want to be in a position where I'm missing something.

24 I mean, sentence three is basically saying
25 that the taxpayer has a right to an in-person
26 hearing. And that's what we've been just arguing
27 about, and politely arguing about, conceptually.

28 So what am I missing?

1 MS. EVANS: Mr. Moore, just to help me out,
2 if we could focus just on sentence three.

3 And if you want to -- I think the Board's
4 already made a decision that we're not in consensus
5 on one and two.

6 But if the Chair decides that we can go back
7 to that based on time, we're willing to do that. But
8 for purposes of where we are now, I'm just curious of
9 whether CATA is prepared to say we are in consensus
10 on three.

11 We would like section two of three to be
12 appropriately wordsmithed by staff. And we can bring
13 it back for discussion.

14 Just want to know if that's something CATA
15 would be comfortable with.

16 MR. MOORE: Well, I -- I don't -- I'm really
17 just inquiring here. And -- and I don't want to put
18 my imprimatur on sentence three if I'm misreading
19 sentence three.

20 And I fear that I might be misreading
21 sentence three if we're somehow in agreement with
22 Mr. Parker and Mr. McKibben, respectfully.

23 MS. EVANS: I appreciate that, Mr. Moore.
24 Mr. Parker, do you want to respond to
25 Mr. Moore?

26 MR. PARKER: Well, yeah. I'll offer a
27 general comment.

28 First of all, the clerks do not interpret

1 the word as a -- the wording as a general matter, as
2 in participants may, as stating that they have a
3 constitutional or due process right to choose,
4 regardless of what the AAB may be able to offer or
5 needs to offer to the taxpayer. And so I would offer
6 that first.

7 Secondly, I -- I think that the CATA
8 proposals and the CATA testimony on the issue of --
9 of folks seeking postponements and continuances going
10 back, who knows how many months now, have clearly
11 offered the viewpoint that the remedy for the AAB is
12 for the taxpayer to be required to sign a time waiver
13 if they have not already done so.

14 And so on that basis, it -- it seems to the
15 clerks, and certainly to me as a participant in this
16 process, that there is conceptual agreement.

17 So I don't think the clerks are afraid of
18 letting State Board staff try their hand at
19 wordsmithing to use your phrase, Ms. Evans.

20 But I respect CATA's right to decide
21 whatever they decide.

22 MS. EVANS: I think, Mr. Moore, in this
23 section, what we're trying to accomplish is basically
24 stating that if there's a postponement, there is an
25 option for an in-person hearing if the applicants
26 waive their time, is kind of how I read this just off
27 the top of my head. I don't know.

28 Ms. Berkman, Mr. Aprea, I see your hands up.

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MR. APREA: Let me --

MS. EVANS: But I think that's --

MR. APREA: Yeah. Let me -- let me offer this.

And that is that I think that what Mr. Moore was getting at was we have differences of opinion on sentences one and two. And as we all know, all of these three are interconnected.

However, for purposes of moving along, I would think that CATA would be fine having the executive officer and her staff take those sentences and revise them and bring them back.

That does -- that -- I don't want that to be construed as, okay, whatever, you know, Ms. Fleming and her staff come back with, we're going to sign off on. But I think what we're looking at here is let's see how we can make some process.

And to that end, we would certainly invite Ms. Fleming and her staff to come back with a -- a revision on that, and allow us the opportunity to comment on that.

And so I know that much of sentence three was -- was offered by CATA. And so I'm not backing away from that. But I know we've had some discourse back and forth.

But I think, again, what we offered in terms of sentence three cannot be separated from what we offered in sentences one and two.

1 And so while they are separate sentences,
2 they are, in our view, are interconnected.

3 But again, for purposes of moving things
4 along and seeing if we can find some consensus in the
5 near future, I know we're not going to do that today
6 on this item.

7 But I -- I would -- I would submit that from
8 CATA's perspective, we would be okay with the BOE
9 staff coming back with a revised draft.

10 MS. EVANS: Thank you, Mr. Aprea.

11 I see Tom Parker's hand up. And then we
12 will close out this section.

13 Mr. Parker.

14 MR. PARKER: I -- my hand -- I think I've
15 pretty much spoken my piece. I do agree with --

16 MS. EVANS: Thank you.

17 MR. PARKER: -- with what Mr. Aprea said
18 about much of this coming from CATA. So I think
19 there is some room for consensual agreement between
20 CATA and the clerks.

21 And I -- as I said before, the clerks, we're
22 open to seeing what the State Board staff comes back
23 with in their version, before any final approval or
24 disapproval is offered by our organizations, as with
25 CATA.

26 MS. EVANS: Thank you so much, Mr. Parker.

27 Mr. Chair, it appears that for the first
28 issue, we have conceptual consensus on the third

1 sentence.

2 All three sections, we would, as a work
3 group, recommend that the Executive Director and her
4 team take section two of this section and draft
5 language consistent with the intent and the spirit of
6 the language.

7 And I will ask, I believe, for public
8 comment, or turn back to you for public comment and
9 Board action on this section.

10 MS. FLEMING: Members.

11 MR. VAZQUEZ: Yes. Go ahead, Ms. Fleming.

12 MS. FLEMING: This is Brenda Fleming,
13 Executive Director.

14 Thank you for restating that, Ms. Evans.

15 Just for the record, just to help staff and
16 the audience and those that are -- others that are
17 listening clarify. When we're referring to the
18 sections, everyone, we are referring to the
19 paragraphs.

20 So Ms. Evans is addressing the third
21 sentence. So if you're referencing the material that
22 was attached to the PAN, it's generally page 2. It's
23 entitled -- third sentence, postponement request,
24 etc. Those paragraphs are the sections that we're
25 referring to.

26 So in this case to be specific, and,
27 Ms. Evans, correct me if I'm misstating your intent.
28 The second paragraph under the third sentence section

1 reads:

2 "Postponement requests, which do not
3 procedurally comply," etc.

4 That paragraph specifically is the material
5 that you're asking my staff to assist with coming up
6 with a cleaner version of summarizing the language;
7 is that correct?

8 MS. EVANS: Correct, Ms. Fleming.

9 MS. FLEMING: Okay.

10 And if we don't mind, I know this is a lot
11 of very intense information. But if we could
12 reference them as the paragraphs. So on the record,
13 specifically for ADA compliance, etc., it does help
14 us to articulate that.

15 So that -- because I'm getting some comments
16 behind the scenes about if we're talking about the
17 first sentence, the second sentence as sections,
18 versus the third -- the sentence themselves, and then
19 the subsets of those as paragraphs.

20 Is that --

21 MS. EVANS: Thank you, Ms. Fleming. I
22 struggle with talking about a sentence and then a
23 paragraph. So --

24 MS. FLEMING: I understand, and am just
25 trying to help. So I hope that clarifies for you.

26 MS. EVANS: No problem. We can do that
27 going forward.

28 MS. FLEMING: Got you. Thank you.

1 MR. VAZQUEZ: Thank you.

2 And with that, let me see if there -- check
3 in with Ms. Taylor, and see if there's any written
4 comments on this item before we move forward.

5 MS. TAYLOR: Chairman Vazquez, there is no
6 written comments.

7 MR. VAZQUEZ: Can we check with At&t if
8 there's anybody on the line who wishes to comment on
9 this?

10 MS. TAYLOR: Certainly.

11 At&t moderator, can you let us know if
12 there's anyone who would like to make a public
13 comment on this matter.

14 Each caller will have up to three minutes to
15 speak.

16 AT&T MODERATOR: Okay.

17 Once again, if you'd like to make a public
18 comment, please press one, then zero at this time;
19 one, then zero.

20 And we have no one in queue for comment.

21 MR. VAZQUEZ: Thank you.

22 Ms. Evans, with, then, if I'm -- if I was
23 capturing what we just finished here, it sounds like
24 we're going to allow staff to come back with a
25 revision of this. And hopefully that -- see if
26 there's a consensus from all parties at that point.

27 And I'm -- I'm just thinking, before we move
28 on to the next subitem, I just wanted to do a -- a --

1 just an agenda check here with staff and the Members.

2 We're coming up on 1:00 o'clock. It's like
3 12:40. Do we need to take a break now, or do you
4 want to go to the next subitem?

5 MS. FLEMING: If I may.

6 MR. VAZQUEZ: Yes.

7 MS. FLEMING: I'm sorry for the
8 interruption, Members, and speakers.

9 Just to confirm for my staff's action, are
10 we asking staff to summarize just third sentence,
11 second paragraph, again, starting with
12 "postponement"? Or did you want us to take a stab at
13 sentence one, sentence two, and sentence three?

14 I heard in some of the discussion that, at
15 least from a CATA perspective, there was some
16 correlation in terms of their agreement or
17 disagreement on sentence one, two and three.

18 So are we only specifically scoping our work
19 to summarize the language to only third sentence,
20 second paragraph? Or did you want us to take a stab
21 at all of the material provided?

22 MS. EVANS: Ms. Fleming, based on the work
23 group discussion, we are limiting our action to
24 sentence three, paragraphs one, two, and three.

25 MS. FLEMING: Okay. Just wanted to confirm
26 that. Thank you.

27 MS. EVANS: And basically paragraph one will
28 stay as is, paragraph three will stay as is, and you

1 and your team will engage in the necessary actions to
2 draft language to clarify paragraph two.

3 MS. FLEMING: Okay. We're in agreement. We
4 just wanted to confirm it for the record.

5 MS. EVANS: No problem.

6 And then, Chair, based on our directive for
7 today, you are going to now, as a Board, take action
8 as it relates to this section, was my understanding,
9 or as it relates to this issue.

10 MR. VAZQUEZ: Yes.

11 So moving forward, did we want to -- what --
12 now, let me ask you this, so are you looking, or was
13 it your consensus thinking that we would vote on at
14 least that first part of it?

15 MS. EVANS: I believe that was the direction
16 that we were given, is based on each issue, as we
17 come to a consensus, the Board would take an action
18 once we received public comment.

19 And then we go to issue two, do the same,
20 issue three, and issue four.

21 So at this point, we basically need a motion
22 from a Member to basically adopt the consensus that
23 has been reached for issue one, sentence three.

24 We are basically stating that paragraphs one
25 and three will stay as written. Paragraph two, we
26 will direct staff to finalize for consideration.

27 MR. VAZQUEZ: I will go ahead and move that,
28 and see if there's a second.

1 MR. GAINES: Second.

2 MR. VAZQUEZ: And I hear a second.

3 Members, are there any comments or questions
4 on that?

5 Seeing and hearing none, do we need to go
6 back out to the public on this, Ms. Taylor, or is
7 that sufficient?

8 MS. TAYLOR: I see Ms. Stowers waving.

9 MR. VAZQUEZ: Oh, Ms. Stowers.

10 Go ahead, Ms. Stowers.

11 MS. STOWERS: Thank you.

12 Thank you, Chairman Vazquez.

13 I'm like you, Ms. Evans. I'm struggling
14 with tracking the sentence and the paragraphs.

15 So were you saying staff will go back and
16 get the cleanup language on where we have agreement?

17 MS. EVANS: So starting --

18 MS. STOWERS: Go ahead.

19 MS. EVANS: If you look at sentence three,
20 we are now calling the wording underneath sentence
21 three paragraphs. So one paragraph starts with
22 "Participants," one paragraph starts with
23 "Postponement," and one paragraph starts with "Any
24 applicant-disclosed."

25 MS. FLEMING: Correct.

26 MS. EVANS: The paragraph that starts with
27 "Postponement" is the paragraph that Ms. Fleming and
28 her team will engage in a process to finalize for

1 recommendation and consideration.

2 MS. STOWERS: Okay. Thank you for that
3 clarification.

4 MS. EVANS: No problem.

5 And, Mr. Vazquez, we took public comment
6 immediately after the work group's feedback.

7 MR. VAZQUEZ: Exactly. And I was just
8 wondering, since now there's a motion, I'm just
9 wondering, technically, do we have to --

10 MS. EVANS: Oh.

11 MS. FLEMING: Yes.

12 MR. VAZQUEZ: Just to be safe, right?

13 MS. FLEMING: Best -- best to take public
14 comment at this point before your vote, please.

15 MR. VAZQUEZ: That's what I'm thinking.

16 Okay. Ms. Taylor, if you can just check to
17 see if there's anybody on the line who wishes to
18 comment on the motion now.

19 MS. TAYLOR: Certainly.

20 At&t moderator, could you let us know if
21 there's anyone who would like to make a public
22 comment on this matter.

23 AT&T MODERATOR: And, once again, if you
24 would like to make a public comment, please press
25 one, then zero at this time; one, zero.

26 And we have no one in queue for comments.

27 MR. VAZQUEZ: Thank you.

28 With that, Ms. Taylor, if we can have a roll

1 call on the motion.

2 MS. TAYLOR: All right.

3 To confirm, the motion on the floor is to
4 have the Executive Director and team make a
5 recommendation on the third sentence, second
6 paragraph.

7 Chairman Vazquez.

8 MR. VAZQUEZ: Aye.

9 MS. TAYLOR: Vice Chair Schaefer.

10 MR. SCHAEFER: Aye.

11 MS. TAYLOR: Member Gaines.

12 MR. GAINES: Aye.

13 MS. TAYLOR: Member Cohen.

14 MS. COHEN: Aye.

15 MS. TAYLOR: Deputy Controller Stowers.

16 MS. STOWERS: Aye.

17 MR. VAZQUEZ: So that's unanimous of all
18 those present.

19 With that, Ms. Taylor, well, before I have
20 Ms. Taylor call the next subitem, I'm just wondering,
21 I haven't heard back from staff.

22 Are we still good to continue on, or do they
23 need a break at this point?

24 MR. SCHAEFER: Chair Vazquez, I would
25 recommend we just plow forward. I don't think we
26 have time for lunch. We've heard so much on this
27 last item.

28 MR. VAZQUEZ: I'm comfortable with that.

1 I'm just trying to be respectful of the Members and
2 staff.

3 MS. FLEMING: Chairman Vazquez, give me one
4 second. I'm just confirming with staff now.

5 I believe our transcriptionist would
6 probably like to rest her fingers. Let me just
7 confirm.

8 MR. APREA: Mr. Chair, I just want to remind
9 the Board and staff that Mr. Moore will have to leave
10 at 1:00 o'clock. And Mr. Brad Marsh will be on board
11 representing CATA at 1:00 p.m.

12 And so I just wanted to ask if we could
13 afford for [inaudible].

14 MR. VAZQUEZ: We lost your voice. We lost
15 your voice, Marc.

16 MR. APREA: I would ask if the Board would
17 consider giving Mr. Moore an opportunity for any
18 closing remarks before he has to go at 1:00 o'clock.

19 MR. VAZQUEZ: Sure. Not a problem.

20 MR. SCHAEFER: I favor that, too.

21 MR. VAZQUEZ: Mr. Moore, if you're
22 available.

23 MR. MOORE: I am.

24 So I -- I was very impressed with this
25 hearing. It's the first time I've been before a
26 Board hearing like this commenting on legislation.
27 And I really appreciate all the seriousness and
28 civility that's going on.

1 And I appreciate the disagreements, and I
2 appreciate the fact that we seem to come to what I
3 believe to be a consensus with respect to sentence
4 three. Which is, quite honestly, I was surprised by,
5 but very pleased by at the same time.

6 You know, in this regard, I failed to
7 mention it when -- in my little opening remark, but
8 this idea of having an in-person hearing is -- is
9 not -- and as opposed to a remote hearing, is not
10 isolated to just the assessor's officer and assessor
11 appeals board and the Board of Equalization.

12 I represent taxpayers before the California
13 Department of Fee Administration, the FTB, and other
14 California agencies. And certainly the CDTFA has a
15 procedure where if you want an in-person hearing,
16 you're absolutely entitled to an in-person hearing.
17 And they do offer remote hearings. But it's your
18 right to have an in-person hearing.

19 And I think the reason why is for the
20 reasons that Ms. Robowski said in her position, which
21 is that we're talking about real technical
22 information that has a significant impact,
23 financially, on a taxpayer.

24 And to have these hearings done, certainly
25 in complex cases, and certainly balancing needs or
26 backlogs, or allowing postponement where necessary.
27 But having the right for these taxpayers to have
28 in-person hearings is really paramount to due

1 process.

2 I appreciate everyone hearing my positions.
3 I hope I didn't step on any toes or say anything too
4 inflammatory. I've been known to do that sometimes.
5 And if I did, I apologize for that.

6 But it's been -- it's been an honor speaking
7 to you, and I appreciate the opportunity.

8 MR. VAZQUEZ: No, thank you for your time
9 and your participation.

10 And I know Mr. Aprea and his other
11 colleagues will continue with us.

12 With that, I'm hearing back from staff that
13 they would like to have at least a 15-minute break.

14 And, Member Cohen, is that sufficient?

15 I know -- I just want to check with the
16 Members as well.

17 I'm seeing nods. Okay.

18 Why don't we take a 15-minute break. And I
19 have 12:50, so that puts us at 1:05. We'll reconvene
20 at 1:05.

21 If people would just mute their mics and
22 their cameras, and we'll be back at 1:05.

23 Thank you.

24 (Whereupon a break was taken.)

25 MR. VAZQUEZ: Okay. Looks like everybody's
26 back.

27 Let me get Ms. Taylor. If she would -- is
28 Ms. Taylor back?

1 MS. TAYLOR: Yes, Chairman Vazquez. I'm
2 here.

3 MR. VAZQUEZ: Great. Can you go -- why
4 don't we have Ms. Taylor please call our next
5 subitem.

6

7 **SUBITEM C CONTINUED**

8

9 MS. TAYLOR: All right.

10 We will continue in Subitem C: Follow-Up
11 Evaluation of Remote AAB Hearings - Taxpayer
12 Representative Perspectives and Clarification of LTA
13 No. 2021/002.

14 And the next item is "Document Submission."

15 Is Ms. Evans ready to facilitate?

16 MR. VAZQUEZ: Is Ms. Evans back?

17 MS. EVANS: I am.

18 MR. VAZQUEZ: Great.

19 Why don't we go ahead and continue,

20 Ms. Evans.

21 MS. EVANS: Thank you.

22 Issue two, "Document Submission."

23 The current LTA language reads as follows:

24 "Counties may require the electronic
25 submission of evidence up to three business days
26 before the commencement of a remote hearing, but are
27 encouraged to require only two business days.

28 Counties may require evidence submitted by

1 hard copy to be submitted up to seven days before the
2 commencement of a remote hearing, but are encouraged
3 to allow exceptions as appropriate.

4 In compliance with Rule 313, and as required
5 for in-person hearings, evidence submitted by a party
6 prior to the commencement of a remote hearing must
7 not be made accessible to the other party until the
8 hearing commences and the subject evidence has been
9 introduced.

10 And further compliance with Rule 313,
11 counties shall allow day-of-the-hearing electronic
12 submissions and remote hearings for all rebuttal
13 evidence and documents for witness impeachment and
14 for correcting errors as appropriate.

15 PDF documents are preferred in order to
16 protect document integrity, but other forms may be
17 accepted by the appeals board clerks as appropriate.

18 All parties must be able to present
19 evidence, written and oral, as well as direct and
20 cross-examination of witnesses and documents in
21 real-time at remote hearings per Rules 302 (a) (1) and
22 313(e), and the Revenue and Taxation Code Sections
23 1609 and 1610.2.

24 Unless freely agreed otherwise by the
25 parties, all appeals board members and the parties
26 must also be able to view all documents that have
27 been introduced into evidence, and hear all parties
28 in real-time, in order for the board to render its

1 decision, only on the basis of proper evidence
2 presented at the hearing in compliance with Rule 302.

3 Once introduced, the appeals board members
4 and the parties must have the ability to view and
5 download the full exhibit at their discretion,
6 independent from the controlled screen display shown
7 during the remote hearing.

8 Additionally, the public must be able to
9 hear the remote hearing as required by RTC
10 Section 1605.4.

11 Technological platforms for remote hearings
12 should have the ability for evidence to be viewed in
13 real-time, and the ability to prevent trade secrets
14 from being viewed by the public.

15 In the event of a connectivity problem, the
16 absence of an available IT resource, or other
17 challenge, the appeals board has legal authority to
18 grant a continuance as it deems appropriate."

19 Document Submission: we will now review the
20 proposed changes.

21 I want to point out that in this area, the
22 language that has been removed is language that was
23 previously submitted by the clerks. But I believe
24 CATA provided an alternative. And we did not get a
25 response back from the clerks. So I want to start
26 with that context.

27 So I will read this into the record:

28 "Appeals boards may require the electronic

1 submission of evidence up to three days before the
2 commencement of a remote hearing, but are encouraged
3 to require only two business days.

4 Appeals boards may require evidence
5 submitted by hard copy to be submitted up to seven
6 days before the commencement of a remote hearing, but
7 are encouraged to allow exceptions as appropriate."

8 The alternative proposed to the sentence
9 that has been removed:

10 "To the extent that the parties failed to
11 comply with the appeals boards' written deadlines for
12 submission of evidence that must be submitted in the
13 advance of a hearing, i.e., evidence, other than
14 rebuttable evidence, impeachment, documents, or
15 documents needed to correct errors as appropriate,
16 the clerk shall make every effort to accept and
17 prepare the evidence as needed for the hearing as
18 scheduled.

19 If the submission of this evidence requires
20 the hearing to be delayed for more than 45 minutes,
21 then the appeals board, at its discretion, may
22 postpone or continue the hearing as provided under
23 Rule 323(c)."

24 Start first with CATA. And we will look at
25 this sentence in its totality.

26 And I will just ask, for the record, is
27 there consensus in the language as provided?

28 MR. APREA: Ms. Evans, did you want us to

1 speak, or did -- again, the language that has been
2 provided and that you referenced was submitted by
3 Breanne Robowski and on behalf of CATA. So certainly
4 we're supportive of that.

5 I also, if I may, Ms. Evans and Mr. Chair,
6 introduce Brad Marsh, who is on the line.

7 You'll recall at the beginning of this
8 meeting I indicated that -- that Kevin would be on --
9 Kevin Moore would be on for the 10:00 to 1:00 p.m.
10 slot, and that Mr. Moore [sic] would be on at
11 1:00 o'clock. And I just want to make sure that I
12 introduce you to him.

13 He is with the law firm of Greenberg
14 Traurig, and is a shareholder, along with
15 Cris O'Neill, who I know you all are familiar with.

16 And I just want to make sure that the Board,
17 the staff, and those who may be following this
18 hearing, recognize that Mr. Marsh is representing
19 CATA, and have him be recognized by you as CATA's
20 primary witness for the next two-and-a-half hours.

21 MR. MARSH: Members of the Board, Brad Marsh
22 here at your service. Let me know how I can be of
23 service here.

24 MS. EVANS: Welcome, Mr. Marsh.

25 Based on Mr. Aprea's comments, CATA is in
26 agreement with the language that's been provided.

27 I will go to the clerks.

28 Mr. Parker, do you have any comments?

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MR. PARKER: Yes.

The clerks do not agree with the language as proposed. And we -- we disagree with the language, because it fails to recognize the constitutional procedural authority of the boards to come up with local rules to address the procedural aspects of hearings.

And also because, as a practical matter, it does not address the issues that boards -- and I don't mean Los Angeles when I say that -- are experiencing with, both assessors, as well as taxpayers, who are noncompliant in meeting the local rules or procedures regarding electronic document submittal for remote hearings that have been scheduled.

MS. EVANS: Thank you, Mr. Parker.

I want to come back to you, but I want to go to Ms. Berkman.

And then, Mr. Gaines, I do see your hand.

So after we hear from Mr. Berk -- I mean Ms. Berkman, we'll come to you.

MS. BERKMAN: Thank you.

I agree with the first paragraph. The one that starts with "Appeals board," and ends with "as appropriate." I concur with that.

I would additionally be amenable to adding in the clerk's association language that starts with "Assessment Appeals Board," and ends with

1 "jurisdictions."

2 My personal thoughts on that is regardless
3 of whether that sentence is there or not, both under
4 the Constitution and state law, the appeals board do
5 have the jurisdiction, and the Board of Supervisors,
6 to create and enforce appropriate local rules and
7 procedures.

8 So regardless of whether that paragraph is
9 there or not, I think the Board of Supervisors and
10 the Assessment Appeals Board have the authority to do
11 that, and most certainly should do that.

12 I don't believe anyone -- I think there was
13 broad consensus at the last meeting, no one is
14 suggesting that what the AABs would do would be to
15 exclude evidence.

16 I think we're all on the same page, CATA and
17 the clerks and myself, on that.

18 With respect to CATA's alternative proposal,
19 in the last paragraph of the section, I disagree with
20 that.

21 In Santa Clara County, when I was board
22 counsel there, for example, we usually had between
23 fifty and several hundred items on the agenda.

24 And if you can imagine even a small fraction
25 of those being delayed by 45 minutes, then you
26 imagine the chaos that this proposal would ensue.

27 With a remote hearing, you already have the
28 regular clerk running the hearing, and another clerk

1 attending to the documents. And this would require a
2 third clerk that I'm sure the State Board of
3 Equalization does not want to fund just to be
4 scanning in the documents from a case that's being
5 delayed because the primary documents are being
6 submitted late.

7 It would also create a situation that's
8 different from how in-person hearings are handled.

9 For example, in Santa Clara County, if a
10 witness for either the assessor or the taxpayer shows
11 up without the required number of copies of
12 documents, their case is passed, stopped dead in its
13 tracks, and they're sent out to the hall to make, at
14 their own expense, the requisite number of copies.

15 And then their hearing will continue, and at
16 the discretion of the board chair or the hearing
17 officer, either the next case after the case is
18 finished when they come back, or they move to the end
19 of the calendar. It's at the hearing officer's
20 discretion.

21 In contrast, with remote hearings, if you're
22 saying we're just going to stop things for 45 minutes
23 while the clerk scans in the documents, that's a
24 different procedure.

25 And it creates even more of a delay and a
26 backlog with the Assessment Appeals Board, and more
27 chaos, because you're going to have to have one clerk
28 scanning in the case that failed to timely submit

1 their documents, while another clerk is handling, if
2 the board goes on, whatever case is next at the
3 hearing while that process is happening. Or the
4 alternative would be to have repeated lengthy delays.

5 So I think CATA's proposal, for that reason,
6 is unworkable.

7 Thank you.

8 MS. EVANS: Thank you, Ms. Berkman.

9 Mr. Chair, do you want to call on
10 Mr. Gaines?

11 MR. VAZQUEZ: Sure. Thank you.

12 Member Gaines.

13 MR. GAINES: Yeah. Thank you very much.

14 I just want to get clarification in the
15 language. Because I want to make sure I'm
16 understanding it right. Because it talks about
17 electronic submission of evidence up to three
18 business days.

19 Remote hearing -- let's see, commencement of
20 remote hearing is encouraged to require only two
21 business days, and then a requirement for evidence
22 submitted by hard copy to be submitted up to seven
23 days.

24 So I just want to make sure the -- is the
25 third requirement seven business days, or is it seven
26 days?

27 I just want to make sure the language is
28 accurate, and that's already been discussed.

1 MS. EVANS: Chair, I think that was CATA's
2 language. Maybe Mr. Aprea can speak to that.

3 MR. APREA: Let me refer that to Mr. Marsh
4 if he would. And if he won't, I'm happy to do so.

5 MR. MARSH: As I'm reviewing this, it
6 appears to me that this was the original language
7 submitted by the clerks.

8 And so the question to me is what was
9 intended by them, and I don't know the answer.

10 MR. GAINES: Okay.

11 I just wanted to make sure that it's
12 intended to have seven days, not seven business days
13 for evidence submitted by hard copy, versus the other
14 two, electronic submission and remote hearing are
15 actually business days.

16 That's fine, because it is what it is. I
17 just --

18 MS. EVANS: Mr. Gaines has raised a
19 question.

20 I'm just wondering, from the work group
21 members, is -- was that our intent, or is there an
22 error there?

23 MR. PARKER: This is Thomas Parker on behalf
24 of the clerks to try and answer Mr. Gaines' question.

25 I would think that the intent was for it to
26 also be business days to be consistent with the two
27 and the three-day business day periods.

28 Although it does not, as Mr. Gaines has

1 rightly noted, it does not say business days.

2 I would think implicitly it was intended to
3 be seven business days. But if anyone has a
4 different view, I'm glad to hear about it.

5 MR. VAZQUEZ: Hearing none, I think there's
6 an agreement on that; is that correct?

7 MS. EVANS: I believe, Chair, that --

8 MR. VAZQUEZ: Seeing hair -- heads nod right
9 now.

10 MS. EVANS: Yeah.

11 MR. VAZQUEZ: Okay.

12 MR. GAINES: Okay. Thank you.

13 I just wanted to raise it to make sure that
14 we had clarity on it.

15 Obviously there's disagreement on that, so
16 there's bigger issues. But I just wanted to point
17 that out.

18 MR. VAZQUEZ: Thank you.

19 MS. EVANS: Thank you, Mr. Gaines and Chair.

20 I want to go back to the work group members.
21 And I just have a comment.

22 Based on the comments that have been
23 maded -- the comments that have been made, I'm sorry,
24 there does not appear to be consensus in this area.

25 Or is there an opportunity to come to
26 consensus? It sounds like the first paragraph, the
27 clerks would like the language that is in red to
28 remain.

1 And, CATA, it looks like it was your
2 proposal to eliminate that language.

3 By any chance is that language that you
4 believe you could support staying in a potential LTA
5 based on the comments made today?

6 And I'm not getting to your language yet,
7 but just trying to figure out whether you could
8 support that language being included before we get to
9 your language.

10 MR. APREA: Ms. Evans, I'm going to ask
11 Mr. Marsh to comment on that. And I'll fill in any
12 gaps that might be there.

13 MR. MARSH: Brad Marsh on behalf of CATA.

14 It was a little unclear to me, and I
15 apologize if that's my own misunderstanding, whether
16 we were talking about the appeals board substituting
17 for county's language, in which case we would support
18 that change.

19 Or the deleted sentence in the middle of the
20 paragraph there, in which case, you know, it might be
21 possible to come to some agreement around language
22 there.

23 MS. EVANS: Yes, Mr. Marsh. I'm just
24 talking specifically about the first paragraph that
25 starts with "Appeals board may require."

26 And then there is red language that has been
27 removed, and that was removed by CATA.

28 I'm just asking, based on the comments

1 today, could CATA embrace that language?

2 Therefore, if so, we could have consensus on
3 the first paragraph of this section.

4 MR. MARSH: CATA cannot embrace the language
5 as written, partly because of the --

6 MR. APREA: Brad, let me just --

7 MR. MARSH: Yes.

8 MR. APREA: You are referring to the
9 language that has been struck, just to be clear.

10 MS. EVANS: Yes.

11 MR. APREA: Ms. Evans, you're asking us if
12 we could embrace or support the language that is
13 red-line struck.

14 And I just want to make sure that you all
15 are understanding Brad, it's not the language as
16 written, but rather we're not able to embrace the
17 language that has been struck.

18 And that would then be reinserted, if you
19 would, in a subsequent draft.

20 MR. MARSH: Correct. We do not embrace the
21 reinsertion of the language.

22 MS. EVANS: And I just want to pose a
23 question, Mr. Aprea and Mr. Marsh, if the language as
24 drafted is current law -- and I'm just posing the
25 question -- is there any way you could reconsider
26 that, or is it your position that you don't support
27 it?

28 MR. APREA: Let me offer this, I mean, I

1 think that we recognize that that is the existing
2 LTA. And just as CACEO has suggested, changes to the
3 existing law, so, too, has CATA.

4 And where our view here is that what we have
5 proposed is a -- a better approach to this than
6 existing law.

7 So, again, I'm not -- I -- we recognize --

8 MS. EVANS: Understood. Understood.

9 I appreciate it, Mr. Aprea.

10 MR. APREA: All right. Just wanted to make
11 sure.

12 MS. EVANS: I think we have Ms. Berkman's
13 hand up.

14 And then, Chair, I think we have Mr. Gaines'
15 up again.

16 Ms. Berkman.

17 MS. BERKMAN: Thank you.

18 One thing I would like to clarify is that
19 the LTA is the State Board advice, which courts give
20 strong deference. It's not law.

21 And with regard to Mr. Aprea's point and the
22 point I had made earlier, the law of the state of
23 California, as set forth in the Constitution and in
24 the statutes, and in the SBE regulations, already
25 gives the Assessment Appeals Boards the ability to
26 have their own rules of local notice and procedure,
27 which are established in the Constitution.

28 And, therefore, regardless of whether or not

1 the paragraph that's highlighted and in red, about
2 that is included in the LTA advice letter or not, the
3 situation remains the same.

4 The AABs do have the ability to have their
5 rules of notice and procedure, and how they're going
6 to handle when people do not abide by the document
7 deadlines for remote hearing procedures.

8 The only question to my mind is whether that
9 language discussing that's going to be in the letter
10 or not.

11 But it doesn't change the law, and it won't
12 change what's happening with the board. It's just a
13 question of whether this advisory letter references
14 that ability or not, to my mind.

15 MS. EVANS: Thank you, Ms. Berkman.

16 I think I see Mr. -- Mr. Gaines' hand is
17 down.

18 So, Mr. Marsh, I think your hand is up.

19 MR. MARSH: Sure.

20 I'd just like to state briefly that of
21 course local Assessment Appeals Boards are permitted
22 to adopt certain local rules in actual practice.

23 In the state of California, many local
24 Assessment Appeals Boards have -- have purportedly
25 adopted rules that were not actually adopted legally.

26 And there also have some Assessment Appeals
27 Boards out there that have adopted rules that
28 directly conflict with existing state law.

1 And so, you know, I think part of the
2 concern with embracing a sentence like this, even if
3 it's true that some local rules are permissible, is
4 that it provides some form of additional authority
5 that really isn't accurate. And makes it sound like
6 all those local rules are permitted, when, in fact,
7 in practice, they're not.

8 MS. EVANS: Thank you so much, Mr. Marsh.
9 Ms. Berkman.

10 MS. BERKMAN: I -- I don't see Mr. Aprea's
11 comment as changing one way or another.

12 I have -- you know, as I've indicated, I'm
13 okay with the language and issue either being in or
14 out.

15 I would suggest that perhaps if Mr. Aprea
16 believes that there are rules that various
17 jurisdictions have enacted that violate the law, that
18 perhaps they compile a list of those, and send them
19 out to Mr. McKibben at CACEO, who could forward them
20 on to the various jurisdictions and point them out.

21 Because I think each jurisdiction, to the
22 extent that they really have rules that were not
23 properly promulgated by their Board of Supervisors,
24 or that CATA believes are illegal, would like to be
25 apprised of that so that they could remedy that.

26 I'm not sure to the extent of which any
27 of -- there's any truth of that. I know I spent
28 several years working on Santa Clara County's current

1 rules.

2 But I would encourage, to the extent that
3 CATA truly, honestly believes there are rules that
4 were either improperly promulgated, or which violate
5 the law, please do let the CACEO and the various
6 jurisdictions know, so that they can work on
7 remedying them.

8 MS. EVANS: Thank you so much, Ms. Berkman.

9 Based on the discussion to this point,
10 Chair, I believe we have no consensus in this area,
11 and we can move to the next section. Unless there's
12 public comment.

13 MR. VAZQUEZ: Ms. Taylor, do we have any
14 written comment on this?

15 MS. TAYLOR: We do not have any written
16 comments.

17 MR. VAZQUEZ: Check with At&t in case
18 there's somebody on the line.

19 MS. TAYLOR: At&t moderator --

20 AT&T MODERATOR: It's one, then zero to --
21 it's one, then zero to make a public comment; one,
22 then zero.

23 And at this time, Mr. Chair, we have no one
24 in queue.

25 MR. VAZQUEZ: Thank you.

26 And I see a hand. Is that Marc Aprea?

27 Are you in the queue?

28 I think so.

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MR. APREA: Yes, sir.

It was just a clarification for the record that the comments made that were ascribed to me were in fact made by Mr. Marsh.

And so I just wanted to make sure that the record -- that there was clarification.

MS. BERKMAN: My apologies. I'm so sorry.

MR. APREA: No, it's quite all right.

MS. EVANS: Thank you.

MR. VAZQUEZ: Continue, Ms. Evans.

MS. EVANS: I believe we can go to the next issue.

Ms. Taylor -- I mean, Chair, I'm not sure if Ms. Taylor calls the issue.

MR. VAZQUEZ: Yes.

MS. EVANS: Or if I just move to the next issue.

MR. VAZQUEZ: Yes.

Is Ms. Taylor available?

MS. TAYLOR: Yes. I'd be happy to call that.

Our third issue is "Scheduling Efficiencies and Notices."

MS. EVANS: The current LT -- the current LTA language -- excuse me -- reads as follows:

"Consisting with the Board's recognition that remote hearing procedures should mirror in-person hearing procedures to the extent possible,

1 if a remote hearing is scheduled, the clerk must
2 provide notices to all parties that (1) inform them
3 that the hearing will be conducted remotely, (2)
4 include instructions for accessing the remote
5 hearing, and, (3) provide information about coaching
6 or training videos, staff consultation, and special
7 needs accommodations where available.

8 In -- in accordance with Rule 307, the
9 notices shall be given no less than 45 days prior to
10 the hearing unless a shorter notice period has been
11 stipulated by the assessor and the applicant or the
12 applicant's agent."

13 Excuse me.

14 The proposed draft language from CATA and
15 the clerks to add the following paragraph to the
16 above:

17 "Counties are encouraged to develop written
18 protocols and procedures to govern remote hearings.
19 These protocols and procedures should mirror
20 in-person hearings to the extent possible, and must
21 comply with all existing laws and regulations.

22 Such written protocols and procedures should
23 be made publicly available, and to the extent
24 possible, should be conspicuously posted on the
25 appropriate webpage of the local clerk of the board,
26 Assessment Appeals Board, and/or Board of
27 Supervisors."

28 Based on the memo, if I understand this

1 correctly, and I'd ask the work group members to
2 state for the record that there is consensus for this
3 language.

4 Starting first with CATA.

5 MR. MARSH: This is Brad Marsh on behalf of
6 CATA. There's consensus on our side.

7 MS. EVANS: Thank you.

8 Clerks?

9 MR. PARKER: On behalf of the clerks, the
10 clerks are in agreement with this language also.

11 MS. EVANS: Thank you.

12 Ms. Berkman, any comments?

13 MS. BERKMAN: Marcy Berkman is also in
14 consensus.

15 MS. EVANS: Thank you.

16 Chair, based on what we've heard from the
17 work group members, I believe it's appropriate to
18 take public comment, and for the Board to make or
19 take action at this time.

20 MR. VAZQUEZ: Thank you.

21 Ms. Taylor, do we have any written comments
22 on this item?

23 MS. TAYLOR: We do not have any written
24 comments on this item.

25 MR. VAZQUEZ: Then can we check with At&t if
26 anybody is on the line?

27 MS. TAYLOR: Certainly.

28 At&t operator, can you let us know if

1 there's anyone who would like to make a public
2 comment on this matter.

3 AT&T MODERATOR: Thank you.

4 If you wish to make a public comment, please
5 press one, then zero. That's one, then zero for
6 public comment.

7 And at this time we have no one in queue,
8 Madam Chair [sic].

9 MS. TAYLOR: Chairman Vazquez, you're muted.

10 MR. VAZQUEZ: I'm sorry.

11 Thank you.

12 With that, if there's no other comments or
13 questions from the Members, I would ask if there's
14 any one of the Members who wish to make a motion to
15 this effect so we could move forward with this.

16 MR. SCHAEFER: I'm at -- Vice Chair Schaefer
17 moves that we move forward with that language.

18 MS. COHEN: I'll second that motion.

19 MR. VAZQUEZ: It's been moved by Vice Chair
20 Schaefer, and second by Member Cohen.

21 If there's no other comments or questions,
22 Ms. Taylor, if you would please call the roll.

23 MS. TAYLOR: The motion on the floor is to
24 adopt the language as presented.

25 Chairman Vazquez.

26 MR. VAZQUEZ: Aye.

27 MS. TAYLOR: Vice Chair Schaefer.

28 MR. SCHAEFER: Aye.

1 MS. TAYLOR: Member Gaines.

2 MR. GAINES: Aye.

3 MS. TAYLOR: Member Cohen.

4 MS. COHEN: Aye.

5 MS. TAYLOR: Deputy Controller Stowers.

6 MS. STOWERS: Aye.

7 MR. VAZQUEZ: So that's unanimous of all
8 those present.

9 With that, Ms. Evans, if you would please
10 continue with the remaining issues.

11 MS. EVANS: Issue four, "Information
12 Requests."

13 The current LTA language reads as follows:

14 "Clerks of the appeals board should remind
15 applicants that RTC Section 441(d) requires a
16 taxpayer to make available to the assessor, for
17 assessment purposes, information or records regarding
18 the taxpayer's property, or any other personal
19 property located on premises the taxpayer owns or
20 controls.

21 The assessor may obtain details of property
22 acquisition transactions, construction and
23 development costs, rental income, and other data
24 relevant to an estimate of value, and it may be
25 introduced at any appeals Board hearing.

26 Taxpayers are expected to comply with an
27 assessor's reasonable request, as both the assessor
28 and the taxpayer must be able to use and present the

1 same information at hearings.

2 If a taxpayer fails to provide requested
3 information to the assessor under RTC Section 441(d)
4 and introduces any of that information at a hearing,
5 the assessor may request and will be granted a
6 continuance for a reasonable time.

7 RTC Section 441(d) applies regardless of
8 whether or not an appeal has been filed.

9 Clerks of the appeals board should also
10 remind applicants that under RTC Section 408,
11 assessors are expected to comply with an applicant's
12 reasonable request for information, relevant to a
13 determination of value."

14 The proposed language:

15 "Clerks of the appeals board should also
16 remind applicants that under RTC Section 408,
17 assessors are expected to comply with an applicant's
18 reasonable request for information.

19 If an assessor fails to provide requested
20 information to the taxpayer under RTC Section 408,
21 and introduces any of that information at hearing,
22 the taxpayer may request and will be granted a
23 continuance for a reasonable time, pursuant to RTC
24 Section 408(f)(3), RTC Section 408 -- I'm sorry,
25 that's a period after the three.

26 RTC section 408 applies regardless of
27 whether or not an appeal has been filed.

28 The continuance shall extend the two-year

1 period specified in subdivision (c) of Section 1604
2 for a period of time equal to the period of
3 continuance."

4 Based on my understanding of the language
5 proposed, I believe the work group members are in
6 agreement and consensus for this language. But I
7 want to confirm that.

8 Can we start first with the CATA
9 representatives.

10 MR. MARSH: Brad Marsh on behalf of CATA.

11 We agree with all of the proposed revisions
12 just read.

13 MS. EVANS: Thank you.

14 MR. PARKER: Thomas Parker on behalf of the
15 clerks.

16 The clerks are in agreement with the
17 proposed additional language.

18 MS. EVANS: Thank you.

19 Ms. Berkman.

20 MS. BERKMAN: Marcy Berkman is in agreement
21 with the proposed additional language.

22 Additionally, I have one small suggestion
23 that stems from the fact that the clerks are not
24 involved in either the 441(d) or 408 requests for
25 exchanges. Those go back and forth directly between
26 the taxpayers and assessors.

27 And, therefore, I would suggest potentially
28 just eliminating in both the 408 and the 441(d)

1 section, the part that says "Clerks of the appeals
2 board should remind the applicant that."

3 And so it would just eliminate that clause
4 at the beginning, and the letter would then state
5 what the rule and requirements are.

6 MS. EVANS: Thank you.

7 MS. BERKMAN: But regardless, whether that
8 change is made, I'm in agreement with the proposal.

9 MS. EVANS: Thank you, Ms. Berkman.

10 I am curious, for sake of feedback, CATA,
11 any comments about Ms. Berkman's recommendation?

12 MR. MARSH: CATA is neutral with respect to
13 the recommendation.

14 MS. EVANS: However, if the clerks are in
15 agreement, would CATA be okay with that change?

16 MR. MARSH: Yes.

17 MS. EVANS: Thank you so much.

18 Mr. Parker.

19 MR. PARKER: The clerks have no objection to
20 Ms. Berkman's suggestions.

21 MS. EVANS: Thank you.

22 Based on those comments, it would result in
23 eliminating the language that starts the sentence, up
24 until the comma.

25 So the new paragraph would start "Under RTC
26 Section 408. "

27 It appears we have consensus.

28 And so, Chair, I will return back to you for

1 public comment and Board action.

2 I'm sorry, Mr. Marsh has raised his hand.

3 MR. MARSH: Thank you.

4 Just a point of clarity. The suggestion
5 that we agreed to was to eliminate that language from
6 both the first paragraph and the final paragraph in
7 the information requests portion of this LTA.

8 MR. SCHAEFER: Chair Vazquez, I would move
9 adoption of that language with the modification
10 recommended by Ms. Berkman.

11 MR. VAZQUEZ: Thank you.

12 It's been moved.

13 I'll go ahead and second that.

14 Let me see if there's any written comments
15 before we move forward though.

16 Ms. Taylor.

17 MS. TAYLOR: Chairman Vazquez, there are no
18 written comments.

19 MR. VAZQUEZ: Can we check with At&t.

20 MS. TAYLOR: Certainly.

21 At&t moderator, could you let us know if
22 there is anyone who would like to make a public
23 comment on this matter.

24 AT&T MODERATOR: Thank you.

25 If you wish to make a public comment, please
26 press one, then zero. That's one, then zero for
27 public comment.

28 And at this time, Mr. Chair, we have no

1 comments in queue.

2 MR. VAZQUEZ: Thank you.

3 With that, Members, if there's no other
4 comments or questions, let me have Ms. Taylor call
5 the roll on the motion.

6 MS. TAYLOR: The motion on the floor is to
7 adopt the language as presented with amendments
8 recommended by Ms. Berkman.

9 Chairman Vazquez.

10 MR. VAZQUEZ: Aye.

11 MS. TAYLOR: Vice Chair Schaefer.

12 MR. SCHAEFER: Aye.

13 MS. TAYLOR: Member Gaines.

14 MR. GAINES: Aye.

15 MS. TAYLOR: Member Cohen.

16 MS. COHEN: Aye.

17 MS. TAYLOR: Deputy Controller Stowers.

18 MS. STOWERS: Aye.

19 MR. VAZQUEZ: So that's unanimous of all
20 those present.

21 I see a hand. Is that an old hand or a new
22 hand from --

23 MR. APREA: That is a new hand, Mr. Chair.

24 MR. VAZQUEZ: Yes.

25 MR. APREA: I just wanted to point out
26 that -- that the reading of the motion did not
27 reflect the comments made by Mr. Marsh. It reflected
28 the suggestion by Ms. Berkman.

1 But as you may recall just moments ago, he
2 also suggested that the 441(d) language in the
3 information request three paragraphs up, that it also
4 reflect that change.

5 And I don't want to speak for -- for
6 Mr. Marsh. But I want to ask that he clarify what he
7 asked for, because that was not in the motion.

8 MR. MARSH: Members of the Board, I -- I --
9 I was correcting what I believe was just perhaps a
10 misunderstanding of the group.

11 I had understood and heard that Ms. Berkman
12 had requested that that language be removed in two
13 places.

14 And that -- that's all I was pointing out.
15 And I believe that's what our group supports.

16 MS. EVANS: If I may, Ms. Berkman, can you
17 restate your suggested amendment?

18 MS. BERKMAN: Mr. Marsh's summary is
19 correct.

20 My suggestion was in both that first
21 paragraph before 441(d), to eliminate the phrase
22 "Clerks of the appeals board should remind applicants
23 that."

24 And then in the new language, to make the
25 same change before 408, eliminate "Clerks of the
26 appeals board should remind applicants that."

27 MR. APREA: Thank you, Mr. Chair.

28 Thank you, Ms. Evans, for allowing us the

1 opportunity to gain clarity on that.

2 MR. PARKER: And --

3 MS. EVANS: Thank you.

4 MR. PARKER: -- for the record, that was
5 also my understanding what Mr. Marsh and Ms. Berkman
6 said.

7 MS. EVANS: Thank you, Mr. Parker.

8 Chair, based on those comments, are there
9 additional actions the Board needs to take?

10 MR. VAZQUEZ: Just to be safe, why don't I
11 go ahead and move that what we just heard as a
12 motion.

13 MS. EVANS: Chair, I would also --

14 MR. VAZQUEZ: Sorry. Go ahead.

15 MS. EVANS: Chair, I would also like to make
16 a recommendation. I don't know if you want to do it
17 in this motion or a subsequent motion.

18 If possible, all the discussions that
19 happened today, if we give the Executive Director the
20 responsibility to review everything in context of
21 current law so that all recommendations are
22 considered in that context.

23 MR. VAZQUEZ: I have no problem with that.

24 And I'm assuming the Executive Director is
25 okay with that.

26 MS. FLEMING: Yes, Members. That would be
27 appropriate. Thank you.

28 MR. VAZQUEZ: Now, I guess from a procedural

1 question, do we need to -- should I include that in
2 this motion, or is that understood?

3 MS. COHEN: I think that's understood.

4 MS. FLEMING: May I?

5 MR. VAZQUEZ: I'm hoping it's understood,
6 but I just wanted to make sure legally we're okay on
7 that.

8 MS. FLEMING: Yeah. May I make a
9 recommendation, and then, please, for parliamentary
10 group, please weigh in on this.

11 Just for clarity, because it's been quite a
12 complex discussion, my recommendation would be for
13 the accuracy for the record, especially since there
14 was a slight amendment to the motion that Mr. Aprea
15 addressed, would be prudent for us to restate the
16 motion.

17 MR. NANJO: Yeah.

18 This is Chief Counsel, Henry Nanjo.

19 I would agree.

20 In addition, I note that this restated or
21 renewed motion does not have a second yet. So we'll
22 need to do that, too.

23 MS. FLEMING: Indeed. Thank you.

24 MR. SCHAEFER: I will -- I will second that.
25 Vice Chair.

26 MR. VAZQUEZ: Thank you. So we have a
27 second.

28 Ms. Taylor, are you able to read back that

1 motion?

2 MS. TAYLOR: No.

3 MR. VAZQUEZ: Okay. Let's go back.

4 Ms. Evans, did you capture that?

5 MS. EVANS: Not in the context, Chair, of
6 the second recommendation.

7 For purposes of clarifying where we find
8 ourselves, Ms. Berkman, can you reread the
9 recommendation?

10 And then I will restate it for the record.

11 MR. VAZQUEZ: Thank you.

12 MS. BERKMAN: Thank you.

13 I recommend the minor change that in the
14 first paragraph, regarding 441(d), the phrase "Clerks
15 of the appeals board should remind applicants that,"
16 be eliminated.

17 And similarly in the last paragraph
18 regarding Section 408, that the same language be
19 eliminated. And that language is, "Clerks of the
20 appeals board should also remind applicants that."

21 Thank you.

22 MR. VAZQUEZ: Thank you.

23 I will go ahead and move that, with the one
24 little caveat that we just stated that we would bring
25 this back before our Executive Director to just check
26 for the legalese on it and make sure we're not in
27 conflict with any laws.

28 MS. EVANS: And, Mr. Vazquez, that relates

1 to all language review --

2 MR. VAZQUEZ: Moving forward, yes.

3 MS. FLEMING: That is correct.

4 MR. VAZQUEZ: All language moving forward.

5 MR. SCHAEFER: I'd like to ask Executive
6 Director, is that okay with you?

7 MS. FLEMING: That's appropriate, yes.

8 MR. SCHAEFER: I would second that motion,
9 Chair Vazquez.

10 MR. VAZQUEZ: Thank you.

11 Now that we have that restated, let's double
12 check, Ms. Taylor, and see if there's anybody on the
13 line who wishes to speak on this.

14 MS. TAYLOR: Certainly.

15 At&t moderator, could you let us know if
16 there's anyone who would like to make a public
17 comment on this matter.

18 AT&T MODERATOR: Thank you.

19 Ladies and gentlemen, if you wish to make a
20 public comment, please press one, then zero. That's
21 one, then zero for public comment.

22 And at this time, we have no one in queue.

23 MR. VAZQUEZ: Thank you.

24 With that, seeing no hands or comments from
25 any of the Members, Ms. Taylor, if you would please
26 call the roll on the motion.

27 MS. TAYLOR: Chairman Vazquez.

28 MR. VAZQUEZ: Aye.

1 MS. TAYLOR: Vice Chair Schaefer.
2 MR. SCHAEFER: Aye.
3 MS. TAYLOR: Member Gaines.
4 MR. GAINES: Aye.
5 MS. TAYLOR: Member Cohen.
6 MS. COHEN: Aye.
7 MS. TAYLOR: Deputy Controller Stowers.
8 MS. STOWERS: Aye.
9 MR. VAZQUEZ: That's unanimous of all those
10 present.
11 With that, Ms. Evans, if you would
12 continue.
13 MS. EVANS: Yes.
14 Mr. Vazquez, that is the complete review of
15 the issues. However, we have a number of them still
16 outstanding.
17 I believe our directive was, based on those
18 that remained outstanding, that the Board has the
19 option to bring this information back in December or
20 January.
21 I think, based on discussions, that the
22 clerks may not be available for our December meeting.
23 So the recommendation is to bring these issues back
24 in January.
25 MR. VAZQUEZ: That's my understanding.
26 And how do the Members and staff feel about
27 that?
28 I'm seeing heads nod.

1 MS. COHEN: Chair, hi. It's Malia Cohen.

2 MR. VAZQUEZ: Yes.

3 MS. COHEN: I just wanted to say I'm
4 definitely in full support of bringing this issue
5 back in January 2022.

6 MR. VAZQUEZ: Okay.

7 Anybody else? Or any of the member --
8 working partners here on this?

9 MR. SCHAEFER: Was that a motion by
10 Ms. Cohen? I would second it.

11 MS. COHEN: It wasn't a formal motion. It
12 was just acknowledging that I'm fine with the item
13 being brought back in January.

14 MR. VAZQUEZ: I see a hand from
15 Member Gaines.

16 MR. GAINES: Yes. Thank you.

17 I just wanted to thank Regina Evans for
18 leading us through that. Because that's -- that's a
19 lot of work.

20 I really appreciate her help.

21 Thank you.

22 MR. VAZQUEZ: Thank you.

23 MS. COHEN: Mr. Chair, if I may.

24 MR. VAZQUEZ: Oh, yes.

25 MS. COHEN: I just wanted to respond to
26 Senator Gaines' comments and just acknowledging just
27 how much work, how much of a heavy lift this has been
28 for our office to do the due diligence, to pull the

1 work together, to get on the calls, to do the
2 follow-up work.

3 This is just what's happening, you know, and
4 transpiring certainly in the public. And this is an
5 example of the kind of work that this body needs to
6 be doing more of.

7 It's -- I know it's labor-intensive, and I
8 know maybe some parts may be boring, but -- and it's
9 laborious. But it's tedious work that needs to get
10 done so we can continue to represent taxpayers.

11 And with that, I want to really recognize
12 and applaud Regina Evans. She's been tremendous in
13 guiding this conversation.

14 Also want to recognize Kris Cazadd and Kari
15 as well, who have been tremendous in making this a
16 heavy lift.

17 John Thiella and Steve Emron [phonetic],
18 also on my staff, have also provided a great level of
19 support for Regina in order for her to -- to deliver
20 and move this portion of the work group meeting.

21 So I think it's one thing to say, yes, let's
22 do work group work, and it's another thing to
23 actually put the effort in forward in moving it -- in
24 moving this agenda item forward.

25 So, again, I just want to recognize the team
26 that probably doesn't get a lot of public adulation
27 and public applause. But I want to just affirm and
28 lift up Regina Evans, who's just been tremendous in

1 guiding this conversation.

2 Thank you.

3 MR. VAZQUEZ: Thank you.

4 Kudos to Ms. Evans and all.

5 And I see a hand -- actually a couple hands
6 now. One from Mr. Dronenburg, and then
7 Member Gaines.

8 MR. DRONENBURG: Thank you, Mr. Chair.

9 Sort of an echo to Member Cohen.

10 I had the fortune to work over the years
11 with Regina, Kari and John. And they're just
12 consistently good. There's no exception. These are
13 talented people.

14 And the staff that you have with them should
15 be -- we should really recognize them. Because this
16 is a time for them to get to the public. But they're
17 good consistently.

18 And I think -- I want to thank -- and then I
19 wanted to say, I -- I agree with the extension. That
20 will give us plenty of time to get through our
21 committees that we need to, and have a really
22 thought-out position on where or if we have any
23 concerns.

24 So I support the extension.

25 MR. VAZQUEZ: Thank you. I appreciate that.

26 And we have Member Gaines, and then I see a
27 hand from Mr. McKibben, and also one from Mr. Aprea.

28 Go ahead, Member Gaines.

1 MR. GAINES: Yes.

2 I want to broaden that. So I want to thank
3 Member Cohen and also Chair Vazquez for all your work
4 and your team's, but also your leadership in
5 advancing this.

6 So thank you, I appreciate it.

7 MR. VAZQUEZ: Thank you.

8 Mr. McKibben.

9 MR. MCKIBBEN: Yes. Thank you, Mr.
10 Chairman.

11 At the risk of repeating, I do want to thank
12 you all, Mr. Chairman, Member Cohen, and your
13 respective staff for the work that they've done on
14 this.

15 And Regina Evans in particular, who has one
16 of the worst jobs that I've ever seen. And she did
17 it extremely well. I'm so glad I didn't have her
18 job.

19 Thank you.

20 MR. VAZQUEZ: Thank you.

21 Mr. Aprea.

22 MR. APREA: Mr. Chair, members of the
23 committee, as well as BOE staff, on behalf of CATA
24 and this Board and its Members, I want to thank this
25 body for all the work that you've done.

26 And I don't mean just for today. But you
27 all began this process in 2020 under extremely, you
28 know, stressful circumstances, in which we didn't

1 know what we could do the next day.

2 And this body stepped up. It demonstrated
3 its worth. It demonstrated the need for the Board of
4 Equalization to provide, to the extent that it can,
5 consistency and guidance across the state.

6 And so I know from the -- from the chair of
7 CATA, as the board, we appreciate the work that you
8 have done, not just in the last few months, but since
9 2020, and the -- the time that the -- that the
10 pandemic hit.

11 And you've done it, not only in the context
12 of the Board action, but also engaging at the
13 legislative level.

14 I also want to thank, you know,
15 Breanne Robowski, who, as you know, can't be here.

16 But I also want to thank the Board for its
17 flexibility in allowing us to put together a
18 substantive team to present the taxpayers' point of
19 view on this.

20 You are all most gracious to allow us to do
21 that. Recognizing that the working group has a
22 consistent set of players, and that this was somewhat
23 disruptive for you all.

24 But staff was tremendous. Not only
25 accommodating our request, but, frankly, that they
26 reached out to make sure that this came off as best
27 as it could.

28 And I think this was -- while we didn't come

1 to consensus on all the items, I know that this body
2 did a lot of work today, made a lot of progress.

3 And I also want to thank Tom Parker,
4 John McKibben and Marcy Berkman and others.

5 While we don't always agree, we -- we
6 disagreed in a very respectful fashion. And I think
7 that all the parties can be proud of how this meeting
8 was conducted.

9 So, Mr. Chair, thank you.

10 Regina Evans, thank you.

11 And all the Board Members and staff, thank
12 you.

13 MR. VAZQUEZ: Member Vice Chair Schaefer, is
14 that a new hand?

15 MR. SCHAEFER: Yes.

16 I just wanted to commend your staff, and
17 Ms. Cohen's, and commend Ms. Evans for her diligent
18 and thorough work on this job. It's things like this
19 that make us look good.

20 Thank you.

21 MR. VAZQUEZ: Thank you.

22 And thank you all. I know this has been a
23 difficult last two years really with this issue. But
24 your patience and your participation has been real
25 helpful.

26 With that, you know, there -- there was a
27 recommendation. I just want to get back on the
28 procedural matter here. And this may be for our

1 Legal team or our Executive Director.

2 Do we need to motion to push this back to
3 January, or is it just understood?

4 MS. FLEMING: I would recommend that we
5 just for -- just for best practice, that we make a
6 motion to agendize this specifically for the January
7 meeting. It's good practice.

8 MR. VAZQUEZ: Okay.

9 So, Member Cohen, since you began this, let
10 me put this back on your lap.

11 MS. COHEN: Thank you, Mr. Chair. I'll pick
12 that up.

13 And, colleagues, I'll make a motion that we
14 agendize the rest of this hearing to be picked back
15 up in January -- in our January 2022 Board Meeting.

16 MS. FLEMING: And, Members, this is
17 Brenda Fleming, the Executive Director.

18 If I could just offer this -- and excuse me
19 for the interruption -- specifically, we were
20 taking -- we are moving to the January 2022 Board
21 Meeting the remaining items, which are agenda
22 items D, agenda items E, agenda items F, and then, of
23 course, agenda item G, naturally, just to [inaudible]
24 if that's the determination of the meeting at that
25 time.

26 But specifically items D, as in David, E, as
27 in elephant, F as in Frank would be the items that
28 would be agendized under this Public Policy Hearing

1 at the January 22 Board Meeting.

2 MR. SCHAEFER: I -- I would second that.

3 MR. VAZQUEZ: Okay. So that's been moved,
4 then second.

5 Ms. Taylor, I guess let's just check with
6 At&t before we vote on this if there's any public
7 comment on it.

8 MS. TAYLOR: Certainly.

9 At&t moderator, could you let us know if
10 there's anyone who would like to make a comment on
11 this matter.

12 AT&T MODERATOR: And, once again, if you
13 would like to make a public comment, please press
14 one, then zero at this time; one, zero.

15 And we have no one in queue for comment.

16 MR. VAZQUEZ: Thank you.

17 Ms. Taylor, could you restate the motion so
18 we make sure everybody is clear on what they're
19 voting on.

20 MS. TAYLOR: Certainly.

21 The motion on the floor is to agendize the
22 rest of this hearing for January 2022, including
23 Items D, E, F and G.

24 MR. VAZQUEZ: That's it, right?

25 MS. TAYLOR: Chairman Vazquez.

26 MR. VAZQUEZ: Aye.

27 MS. TAYLOR: Vice Chair Schaefer.

28 MR. SCHAEFER: Aye.

1 MS. TAYLOR: Member Gaines.

2 MR. GAINES: Aye.

3 MS. TAYLOR: Member Cohen.

4 MS. COHEN: Aye.

5 MS. TAYLOR: Deputy Controller Stowers.

6 MS. STOWERS: Aye.

7 MR. VAZQUEZ: So that's unanimous of all
8 those present.

9 With that, Ms. Taylor, if you would call our
10 next item.

11 MS. TAYLOR: All right, Chairman Vazquez.

12 Are we calling our next Subitem E, or are we
13 moving on to our Board Work Group on Wine Industry
14 and Winegrower Excise Tax Data?

15 MS. COHEN: I believe we're moving on to the
16 Board Work Group.

17 (Whereupon the Public Policy Hearing
18 concluded.)

19
20 **BOARD WORK GROUP CONVENES**

21
22 MS. TAYLOR: Our next item is the Board Work
23 Group on Wine Industry and Winegrower Excise Tax
24 Data.

25 Discussion of issues, option and possible
26 action to address concerns raised by the Wine
27 Institute regarding access to winegrower excise tax
28 data.

1 Executive Director's report back of a
2 possible administrative solution that allows
3 disclosure of the volume of sales data and other
4 relevant information filed by individual wineries,
5 extracted via the winery's zip code, which would
6 continue to preserve the confidentiality of the
7 individual taxpayer.

8 This matter is presented by Mr. Schaefer and
9 Ms. Cohen.

10 MR. VAZQUEZ: Thank you.

11 Vice Chair Schaefer and Member Cohen, I will
12 turn this over to you.

13 MS. COHEN: Shall I jump in?

14 MR. VAZQUEZ: Yes. Yes, Member Cohen. Go
15 ahead.

16 MS. COHEN: Okay. All right.

17 Well, thank you. Good afternoon. I know
18 it's been a long day, a long week.

19 But I just want to thank, again, the
20 Executive Director and her staff for working for
21 potential administrative solutions that would allow
22 the disclosure of the volume of sales data and other
23 relevant information filed by individual wineries,
24 extracted by each winery's zip code, that would
25 continue to preserve the confidentiality of
26 individual taxpayers.

27 So today we are going to be examining the
28 administrative solutions that would provide for the

1 public dissemination of this data within the confines
2 of the taxpayers' confidentiality.

3 And also the preservation of taxpayer
4 confidentiality is essential to the administrative
5 solution in this area.

6 There may be an opportunity to disclose more
7 data that can be useful to assist the wine industry
8 in its global competitiveness.

9 But I believe that first we must carefully
10 examine our options to make sure that, by disclosing
11 this data, we are preserving the taxpayer
12 confidentiality requirements of the current law.

13 So I trust that Ms. Fleming and her team
14 have been very mindful of that.

15 And with that, Executive Director Fleming, I
16 look forward to your report. And I'll turn it over
17 to you.

18 Thank you.

19 MR. VAZQUEZ: You're muted, Ms. Fleming.

20 MS. FLEMING: We absolutely need T-shirts
21 that say that "You're muted."

22 Members, as you know, since Cohen stated, at
23 the October Board Meeting you directed me to report
24 back at this meeting a possible administrative
25 solution that allows disclosure of the volume of
26 sales data and other relevant information filed by
27 individual wineries, extracted via the winery's zip
28 code, which will continue to preserve the individual

1 confidentiality of the taxpayer information.

2 Staff have performed a number of data
3 analysis routines to determine the feasibility of
4 providing the data requested, while, as Ms. Cohen
5 stated, protecting the confidential taxpayer data.

6 Fundamentally, from a technology
7 perspective, it is possible for the database to
8 provide data by zip codes.

9 So technically is a very -- a very specific
10 action, it could be provided by zip code. Of course
11 there's a however. The challenge, however, lies
12 within the complexity of that data.

13 And so based upon the breadth and depth of
14 the data, what staff would like to request is some
15 additional time, with your permission, to do a deeper
16 dive and a further evaluation and examination of that
17 data in order to see how might we provide some of
18 this information, while, again, protecting the
19 underlying goal that the Board has, which we all
20 have, which is to protect the taxpayer data.

21 So, with your permission, we'd like to
22 request specifically some additional time,
23 understanding that this is an interim step. And I'm
24 sure you're interested, and all are interested, in
25 what might be possible by the December timeframe.

26 But of course, you know, when you're doing
27 this kind of a deep dive with the volumes of data,
28 staff, of course, would also appreciate some

1 additional time if that would be considered.

2 MS. COHEN: May I ask a question?

3 How much additional time are you requesting?

4 MS. FLEMING: If we -- if you would give
5 more than the December timeframe, January would be
6 the timeframe, if that would be considered.

7 MS. COHEN: So have you taken into
8 consideration that as a result of your analysis -- I
9 just want to make sure that we are not going to miss
10 the deadline with the Legislature to provide language
11 or partnership with a legislator to carry an
12 initiative -- not initiative, but carry legislation.

13 Has your team reviewed timelines?

14 MS. FLEMING: What I would be happy to do is
15 at least report out any of the additional updates and
16 anything that I can cut -- give you some more
17 concrete information at the -- at the December
18 meeting.

19 We'll do our best and do our due diligence
20 to try to get it together by the December
21 timeframe.

22 MS. COHEN: Okay.

23 MS. FLEMING: If we're not able to, then I
24 can report that to the Board ahead of time, and then
25 ask for permission for more time.

26 But to answer your specific question, the
27 deadline for bill introduction on this one,
28 Ms. Cohen, would be in the February timeframe.

1 MS. COHEN: You're right. And I was also
2 reminded this is an administrative solution, too.

3 MS. FLEMING: Yes, ma'am.

4 MS. COHEN: So I support your request for
5 more time.

6 Thank you.

7 MS. FLEMING: That would be appreciated.
8 Certainly staff greatly appreciate it. It's a deep
9 dive.

10 MS. COHEN: Yeah.

11 MS. FLEMING: With that, that concludes my
12 report, Members.

13 Mr. Chairman, I turn it back over to you.

14 MR. VAZQUEZ: Thank you.

15 Was there any other comments from either
16 the -- Member Cohen or Vice Chair Schaefer?

17 MS. COHEN: You know, I pretty much made the
18 comments that I just wanted for the record.

19 Ms. Fleming, we support you.

20 Mr. Chair, I'm happy to make a motion.

21 MR. VAZQUEZ: Sure.

22 MS. COHEN: That we do continue this item to
23 the January -- the January Board Meeting of 2022.

24 And I, Ms. Fleming, wait, and with bated
25 breath, to see and hear what your team cooks up --
26 cooks up for us.

27 MS. FLEMING: Thank you.

28 MS. COHEN: I'm sorry. I said -- I said

1 January, but I actually meant December. Sorry.

2 MS. FLEMING: So -- so just to be clear, we
3 are reporting back --

4 MS. COHEN: I would like you to report back
5 in December. Even if it's just a touch base like
6 what you're doing right now.

7 MS. FLEMING: Absolutely. Okay. Thank you
8 for that.

9 MS. COHEN: Thank you.

10 MR. VAZQUEZ: That's my thought I was going
11 to ask you.

12 MS. COHEN: Yes.

13 MR. VAZQUEZ: Because you said January.

14 MS. COHEN: Administrative solutions in
15 January. I'll make a motion.

16 I'd love to see and hear from you guys at
17 that time.

18 MS. FLEMING: Absolutely. My pleasure.

19 MR. VAZQUEZ: Vice Chair Schaefer's hand's
20 up.

21 You're muted though, Vice Chair.

22 You're muted.

23 MS. COHEN: Mr. Chair, as Mr. Schaefer
24 figures out the mute situation, I just want to say I
25 misspoke again. I said January.

26 I'm looking for administrative solutions in
27 December. December. A nice touch-base in December.
28 Let me just drive it in.

1 My apologies.

2 MS. FLEMING: Okay. So let me just make
3 sure I'm restating it.

4 I will be reporting back at the December
5 meeting what is possible for this interim solution as
6 an administrative remedy.

7 MS. COHEN: Yes, ma'am.

8 MS. FLEMING: Okay. Thank you, ma'am.

9 MR. SCHAEFER: Chair Vazquez, I would second
10 that motion.

11 Our No. 1 priority as we work on funding
12 workable solution is to protect taxpayer
13 confidentiality. And consistent with that, I second
14 the motion.

15 MR. VAZQUEZ: Thank you.

16 So we have a motion. It's been moved and
17 second.

18 Seeing no other hands or comments,
19 Ms. Taylor, if you could just check with At&t if
20 there's anybody on the line who wishes to speak on
21 this before we vote on it.

22 MS. TAYLOR: Certainly.

23 At&t moderator, can you let us know if
24 there's anyone who would like to make a public
25 comment on this matter.

26 AT&T MODERATOR: Okay.

27 If you would like to make a public comment,
28 please press one, then zero at this time; one, zero.

1 It looks like we do have one that's queuing
2 up now. It will just be a moment while we gather
3 their name.

4 And the public comment will come from the
5 line of Tim Schmelzer.

6 Please go ahead. Your line is open.

7 MR. SCHMELZER: Good afternoon, Chair and
8 Board Members.

9 I just wanted to -- this is Tim Schmelzer,
10 Vice President of California State Relations for Wine
11 Institute.

12 And I just wanted to express our
13 appreciation for staff's continued work on this
14 issue.

15 We support these efforts and the motion
16 today to try to identify an administrative solution.

17 So thank you again.

18 MR. VAZQUEZ: Thank you. And thank you for
19 your patience on this.

20 MR. SCHMELZER: No problem.

21 MR. VAZQUEZ: With that, Ms. Taylor, was
22 there anybody else in the queue, or was that it?

23 AT&T MODERATOR: There are no further in
24 queue at this time.

25 MR. VAZQUEZ: Thank you.

26 With that, Ms. Taylor, if you could restate
27 the motion. Because I know there was some changes on
28 the dates and times.

1 MS. TAYLOR: Certainly.

2 MR. VAZQUEZ: And then go ahead and we'll
3 take a vote.

4 MS. TAYLOR: Okay.

5 The motion on the floor is to continue this
6 item to December 2021 Board Meeting.

7 MR. VAZQUEZ: Thank you.

8 MS. TAYLOR: Chairman Vazquez.

9 MR. VAZQUEZ: Aye.

10 MS. TAYLOR: Vice Chair Schaefer.

11 MR. SCHAEFER: Aye.

12 MS. TAYLOR: Member Gaines.

13 MR. GAINES: Aye.

14 MS. TAYLOR: Member Cohen.

15 MS. COHEN: Aye.

16 MS. TAYLOR: Deputy Controller Stowers.
17 Deputy Controller Stowers.

18 MS. COHEN: Looks like she's dropped off the
19 call.

20 MS. TAYLOR: Yeah. Would you like to hold
21 this vote open until we establish contact?

22 Oh, there she is.

23 MS. STOWERS: Sorry for the delay.
24 Not participating on this matter.

25 MS. TAYLOR: Thank you.

26 MR. VAZQUEZ: So that's -- we do have
27 majority on that, so that moves forward.

28 With that, Ms. Taylor, I believe that was

1 the last item. Am I correct?

2 MS. TAYLOR: That concludes the items for
3 today.

4 MR. VAZQUEZ: Thank you.

5 And once again, thank you, Members,
6 Ms. Fleming, staff, and everyone for your outstanding
7 work for today's business between this last Tuesday
8 and of course today. Very productive two-day
9 meeting.

10 And unless there's any adjournments, I
11 didn't pick up any adjournments from anybody. If
12 there's no other adjournments for this meeting, I
13 would like to officially adjourn this meeting.

14 And I'm looking at the time, it's 2:20.

15 Our next meeting is scheduled for December
16 the 14th and the 15th of 2021.

17 Thank you, all.

18 Thank you, staff.

19 Once again, thank you, Members.

20 Of course it was mentioned already, but I'll
21 reiterate again, Ms. Evans, for your outstanding
22 participation and facilitation.

23 Thank you all.

24 MS. FLEMING: Member Vazquez, if I may.

25 MR. VAZQUEZ: Oh, and before I -- before I
26 forget, I was just looking at -- I'm forgetting that,
27 you know, next week is Thanksgiving.

28 And I just want to wish everybody a very

1 happy and healthy -- and given COVID, I know it's
2 difficult to gather up with everybody that you would
3 like to. But hopefully you do as safe as possible.
4 And have hopefully a very good Thanksgiving week next
5 week.

6 Thank you all.

7 And I see a hand up from Member Gaines.

8 MR. GAINES: Yeah. Thank you for the
9 reminder on Thanksgiving.

10 I hope everybody has a great Thanksgiving.

11 I did just want to shout out to CAL Fire and
12 all the local fire departments and the tremendous
13 work that they did for the Caldor Fire.

14 I did attend an event that recognized them.
15 And just wanted to congratulate them for their heroic
16 effort.

17 They saved a lot of people's homes. It was
18 amazing. They would post up in front of a house and
19 do everything they could to prevent it from burning
20 down. And it worked in literally hundreds of cases.
21 So we're grateful for them.

22 Thank you.

23 MR. VAZQUEZ: Thank you.

24 Ms. Fleming, I see your hand up.

25 MS. FLEMING: Thank you so much, sir.

26 Again, on behalf of the agency staff, first
27 of all, sir, I want to wish you a happy birthday
28 tomorrow.

1 And on behalf of the agency staff, we do
2 wish you all a very happy and safe holiday season,
3 and we look forward to seeing you after the holiday.

4 Thank you, Members.

5 And thank you to all of our staff.

6 MR. VAZQUEZ: Thank you all again.

7 And I know next week several people I know
8 in my local town were doing a lot of giving out of
9 baskets and food. Because there's, you know, while
10 we sit here, for the most part, very comfortable,
11 there's a lot of folks out there that are still
12 struggling to have a good meal in Thanksgiving.

13 So whatever we can do to participate and
14 help out in our local communities is much
15 appreciated.

16 Thank you all, and we'll see you all in
17 December.

18 MS. FLEMING: Thank you, Members.

19 Thank you, staff.

20 MR. VAZQUEZ: Thank you.

21 (Whereupon the meeting concluded.)
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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 November 18, 2021, 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 145 constitute
14 a complete and accurate transcription of
15 the shorthand writing.
16

17 Dated: December 10, 2021
18
19

20 *Jillian Sumner*

21 JILLIAN SUMNER, CSR #13619
22 Hearing Reporter
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