



## STATE BOARD OF EQUALIZATION

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February 21, 1991

In your letter of \_\_\_\_\_ you requested our opinion on the following hypothetical situation concerning the application of Revenue and Taxation Code, Section 80(a)(3) and (4). A change in ownership of a parcel occurs on \_\_\_\_\_. The owner timely appealed both the supplemental assessment and the 1989 newly enrolled value. Prior to hearing, the owner and assessor agreed to a lower value and presented a stipulation that was accepted by the assessment appeals board. Subsequently the owner discovered new facts that led him to believe that the stipulated value was too high. Your reading of section 80(a)(3) suggests that it permits an appeal of the base year value in 1989 and in each of the three succeeding years, 1990, 1991 and 1992 so long as new or different issues are raised in each subsequent appeal. You base this conclusion on the term "that assessment" which you interpret to mean only the specific assessment that was made in each individual year.

Unfortunately we disagree. Concentrating on only a small portion of the statute leads to this erroneous conclusion. The first sentence of (a)(3) establishes the overall frame of reference of four opportunities to contest the base year valuation but notice the use of the exclusive conjunction "or" and the adjective "any" which limits the opportunities to one of the four. The introductory clause "Once an application" of the second sentence makes clear that this provision is operative only within the context of the single choice that was first made.

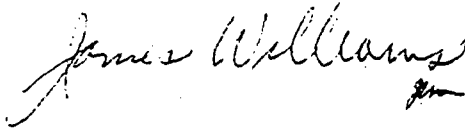
I am enclosing a copy of Property Tax Rule 305.5 which amplifies the statute and also a short opinion of our former assistant chief counsel which issued just subsequent to the statute and rule. You can see that for the past ten years, we have advised that there is only a single opportunity before the appeals board.

February 21, 1991

In a subsequent phone conversation you asked me whether the stipulation by the assessor could be held to be an admission of error, either clerical or judgmental, so that the provisions of section 51.5 and section 80(a)(4) would apply. In response thereto I am also enclosing a letter of June 4, 1990 wherein our present assistant chief counsel analyzed the relationship between those two statutes within the context of a stipulation to the appeals board. You will note that in general he concludes that a stipulation is not an admission of error. He does, however, leave open the possibility that on certain limited facts a court might rule that section 51.5 would apply.

Hopefully the enclosed materials will provide a better understanding of your question. Our views are advisory and are not binding upon any county. Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



James Williams  
Tax Counsel

JW:jd  
3688H

Enclosures

cc: Mr. John Hagerty  
Mr. Verne Walton