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December 8, 2000

Mr. Lee Hill, Program Manager
Legislative Services
County of San Diego
Clerk of the Board of Supervisors
1600 Pacific Highway, Room 402
San Diego, CA 92101-2471

Subject: *Request for Opinion – Use of Electronic Signatures on Assessment Appeal Applications*

Dear Mr. Hill,

This is in response to your letter of October 25, 2000 addressed to Assistant Chief Counsel Larry Augusta in which you request our opinion regarding use of electronic signatures for filing applications for changed assessment. You ask us to address our responses to the following questions:

1. Are there any specific code limitations that would preclude the use of electronic signatures in the filing of assessment appeals?

Answer: There is no specific prohibition in the Revenue and Taxation Code against use of electronic signatures on assessment appeal applications. Revenue and Taxation Code section 1603, subdivision (a) provides in relevant part that an applicant must file with the county assessment appeals board “a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property”, which application form “shall be prescribed by the State Board of Equalization.” With respect to the signature requirement, the interpretive regulatory provision, Property Tax Rule 305, subdivision (b), merely provides that “the application shall be in writing and signed by the applicant or the applicant's agent . . .”.

2. Is there a section of the code that addresses the actual use of electronic signatures?

Answer: Government Code section 16.5 authorizes the use of and prescribes guidelines for electronic signatures. That section provides

- (a) In any written communication with a public entity, as defined in Section 811.2, in which a signature is required or used, any party to the communication

may affix a signature by use of a digital signature that complies with the requirements of this section. The use of a digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

- (1) It is unique to the person using it.
- (2) It is capable of verification.
- (3) It is under the sole control of the person using it.
- (4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
- (5) It conforms to regulations adopted by the Secretary of State. Initial regulations shall be adopted no later than January 1, 1997. In developing these regulations, the secretary shall seek the advice of public and private entities, including, but not limited to, the Department of Information Technology, the California Environmental Protection Agency, and the Department of General Services. Before the secretary adopts the regulations, he or she shall hold at least one public hearing to receive comments.

(b) The use or acceptance of a digital signature shall be at the option of the parties. Nothing in this section shall require a public entity to use or permit the use of a digital signature.

(c) Digital signatures employed pursuant to Section 71066 of the Public Resources Code are exempted from this section.

(d) "Digital signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.

Government Code section 811.2 defines a "public entity" to include "a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State."

The regulations adopted by the Secretary of State pursuant to subdivision (a)(5) are set forth in Sections 22000 through 22005 of Title 2, Division 7, Chapter 10 of the California Code of Regulations.

3. Assuming any guidance for the use of electronic signatures does not exist, would an addition or change to the code be required in order to utilize electronic signatures for this purpose?

Answer: As described above, Government Code section 16.5 and the regulations adopted by the Secretary of State provide guidance for the use of electronic signatures.

4. Does the Board of Equalization have any objection to making such a change to the code if indeed a change would be required?

Answer: The Board has not taken a position in this matter but, as stated in the response to Question 3, it does not appear that such a change would be required, as electronic signatures are authorized under Government Code section 16.5.

It is our view that clerks of the assessment appeals board have considerable discretion in applying the requirements of section 1603 and Rule 305. In general, the requirements provide a clear framework to assure an orderly process. If you believe the electronic filing and electronic signature to be sufficient, and to reflect compliance with the statute and rule, you may accept the filing. The overall goal of the assessment and equalization process is to arrive at the correct value of the property in question, and to permit the property owner the opportunity to have his value reviewed where appropriate. Substance should prevail over technical requirements in this process.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

/s/ Louis Ambrose

Louis Ambrose
Tax Counsel

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