

# **SANTA CLARA COUNTY ASSESSMENT PRACTICES SURVEY**

**AUGUST 2008**

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## **CALIFORNIA STATE BOARD OF EQUALIZATION**

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August 28, 2008

TO COUNTY ASSESSORS:

No. 2008/049

SANTA CLARA COUNTY  
ASSESSMENT PRACTICES SURVEY

A copy of the Santa Clara County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (Board) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the Board shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Lawrence E. Stone, Santa Clara County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Santa Clara County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the Board's County-Assessed Properties Division from September 2006 through February 2007. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Stone and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG:ps  
Enclosure

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## **INTRODUCTION**

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding level, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (Board) periodically reviews the practices and procedures of (surveys) every county assessor's office. This report reflects the Board's findings in its current survey of the Santa Clara County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the Board, and the Senate and Assembly; and to the Santa Clara County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Lawrence E. Stone, Santa Clara County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys*) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

## **SCOPE OF ASSESSMENT PRACTICES SURVEYS**

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code<sup>1</sup> section 75.60, the Board determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix C.

Our survey of the Santa Clara County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contact with officials in other public agencies in Santa Clara County that provided information relevant to the property tax assessment program. This survey also included an assessment sample of the 2006 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments. The sampling program is described in detail in Appendix B.

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

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<sup>1</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

## **EXECUTIVE SUMMARY**

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

In terms of total assessed property value, Santa Clara County is the fourth largest county in the state, following only Los Angeles, Orange, and San Diego Counties. The Santa Clara County Assessor processes over 500,000 secured and unsecured assessments annually. To increase employee efficiency and productivity, the assessor has:

- Launched a major document-imaging project to electronically image 12 million pages of existing documents, moving to a paperless work environment. As a result, the assessor was recognized by the City of San Jose for his commitment to running a "green" office.
- Moved the majority of critical functions from an outdated mainframe to a Hewlett Packard minicomputer.
- Continuously upgraded desktop computers, software, laptops, servers, and printers.
- Participated in the development of a new Geographic Information System (GIS) to increase accessibility and utility for public agencies.

To keep taxpayers abreast of developments in the assessor's office, the assessor publishes an annual report that informs taxpayers of the duties and responsibilities of the assessor's office and provides statistical information, current and historical, regarding locally-assessed property, both secured and unsecured. The assessor has launched an on-line property "look-up" feature on his website that allows taxpayers access to property assessment data, including parcel maps.

In our 2003 Santa Clara County Assessment Practices Survey, we made 30 recommendations to address problems in the assessor's policies and procedures. The assessor fully implemented 24 of the recommended changes. One recommendation no longer applies because Rule 139<sup>2</sup> was repealed and is no longer a Board issue. Our prior recommendations concerning value factors used for biopharmaceutical equipment and appraising vessels at market value will not be repeated because these issues are currently under Board review. The remaining recommendations that the assessor has not fully implemented are repeated in this report.

In addition, we found other areas within the assessor's programs that, while effective, need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

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<sup>2</sup> All rule references are to sections of the California Code of Regulations, Title 18, Public Revenues.

The welfare exemption program is well run, and the assessor handles many other programs effectively, including budget and staffing, assessment roll changes, and assessment appeals. However, there are procedures within the assessment program that should be revised, and we make recommendations to improve these areas. Our primary concerns with the administrative programs are that the assessor: (1) uses non-certified personnel to value vessels, and (2) does not properly apply the low-value property tax exemption.

Overall, the majority of the assessor's programs for the assessment of real property are efficient and productive. However, procedures for assessing special-use properties need revision; we make recommendations accordingly.

In assessing California Land Conservation Act (CLCA) properties, the assessor is not: (1) classifying grapevines as improvements, (2) deducting a charge for return of the well value from income attributable to the property, (3) using an appropriate income stream to value vineyards and orchards, and (4) limiting the exemption period for vineyards to three years after the season of planting. Additionally, in the assessment of taxable government-owned properties, the assessor is not documenting values in all instances.

Although the assessor has effective programs for the audit of personal property, some of the programs surrounding the valuation of business equipment need improvement. For example, the assessor needs to improve his methods in discovering leased equipment and needs to improve his historical aircraft exemption program. While the majority of the issues are minor, the area of greatest concern is with business equipment valuation. In his business equipment valuation program, the assessor is not ensuring that pollution control devices financed by state bonds are assessed.

Despite the problems noted above, we found most properties and property types are assessed correctly. Our sample of the 2006-07 assessment roll indicated an average assessment ratio of 99.81 percent, and the sum of the absolute differences from the required assessment level was 0.40 percent. Accordingly, the Board certifies that Santa Clara County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

Here is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

<b>RECOMMENDATION 1:</b>	Use certified appraisers to value vessels. ....	15
<b>RECOMMENDATION 2:</b>	Include the assessment appeals information required by section 170(c) on the disaster relief reassessment notice. ....	18
<b>RECOMMENDATION 3:</b>	Properly apply the low-value property tax exemption. ....	20
<b>RECOMMENDATION 4:</b>	Issue supplemental assessments for taxable possessory interests. ....	31

**RECOMMENDATION 5:** Revise the CLCA program by: (1) classifying grapevines as improvements, (2) deducting a charge for return of the well value from income attributable to the property, (3) using an appropriate income stream to value vineyards and orchards, and (4) limiting the exemption period for vineyards to three years after the season of planting..... 32

**RECOMMENDATION 6:** Improve the assessment program for taxable government-owned properties by: (1) documenting enrolled values, and (2) correcting valuation errors. .... 34

**RECOMMENDATION 7:** Improve the taxable possessory interest program by: (1) correctly calculating the base year value, and (2) annually determining the market value of a taxable possessory interest based on the stated term of possession as required by Rule 21..... 36

**RECOMMENDATION 8:** Assess enforceably restricted historical properties in accordance with section 439.2..... 38

**RECOMMENDATION 9:** Obtain articles of incorporation for all mutual water companies. .... 41

**RECOMMENDATION 10:** Ensure that pollution control equipment financed by state bonds is assessed..... 47

**RECOMMENDATION 11:** Ensure that leased equipment retained by the lessee upon lease termination continues to be assessed. .... 48

**RECOMMENDATION 12:** Improve the historical aircraft exemption program by: (1) using the current claim form, and (2) date stamping the claim form upon receipt. .... 51

## **RESULTS OF 2003 SURVEY**

### ***Appraiser Certification***

We recommended the assessor use certified appraisers to value aircraft and vessels. This recommendation has been partially implemented. Aircraft values are now being reviewed by a certified appraiser before final enrollment. However, we are repeating the vessel portion of this recommendation.

### ***Disaster Relief***

We recommended the assessor: (1) obtain fire reports from local fire departments to discover property damaged or destroyed by misfortune or calamity, and (2) grant disaster relief for all qualifying misfortunes or calamities, as provided in Rule 139. The assessor has implemented the first recommendation. The second recommendation is no longer applicable since Rule 139 was repealed effective July 11, 2006.

### ***Low-Value Property Tax Exemption***

We recommended the assessor properly apply the low-value property tax exemption. The assessor continues to apply the low-value property tax exemption to classes of property not specified in the low-value exemption ordinance; therefore, we repeat the recommendation.

### ***Assessment Forms***

We recommended the assessor: (1) use the correct version of Board-prescribed forms, (2) timely return all form checklists to the Board, and (3) submit final prints of all forms as required by Rule 171(a). The assessor is now in compliance with these recommendations.

### ***Assessment Roll Changes***

We recommended the assessor correctly identify penalty and escape assessments on the current assessment roll as required by section 505 and Rule 261. Penalty assessments are now correctly identified on the assessment roll in accordance with Rule 261 and section 505. Therefore, we do not repeat the recommendation.

### ***Change in Ownership***

We recommended the assessor include only that information on the list of transfers that is required by section 408.1. The assessor implemented this recommendation.

### ***New Construction***

We recommended the assessor apply an appropriate depreciation allowance to the value of newly constructed additions to existing improvements. In our current survey, we did not find any market evidence to support this recommendation; therefore, it will not be repeated.

### ***California Land Conservation Act (CLCA) Properties***

We recommended the assessor: (1) deduct a capital replacement allowance for irrigation wells that contribute to the income being capitalized, (2) establish base year values for CLCA properties, and (3) properly calculate the income charge to nonliving improvements. The assessor has implemented the second and third recommendations, but has not implemented the first; thus, this recommendation is repeated.

### ***Taxable Government-Owned Properties***

We recommended the assessor enroll the lesser of current market value or restricted value as the base year value of taxable government-owned land. The assessor implemented this recommendation.

### ***Taxable Possessory Interests***

We recommended the assessor reappraise month-to-month taxable possessory interests only at the expiration of the anticipated term of possession as provided in section 61(b)(2). The assessor implemented this recommendation.

### ***Leasehold Improvements***

We recommended the assessor: (1) correctly classify and assess leasehold improvements, and (2) investigate all reported leasehold improvement costs. The assessor implemented both of these recommendations.

### ***Leased Equipment***

We recommended the assessor ensure all equipment is properly assessed upon termination of a lease. The assessor has not implemented this recommendation, and, therefore, it will be repeated.

### ***Business Property Statement Processing***

We recommended the assessor: (1) include only accounts with reported costs of less than \$100,000 in the direct billing program, and (2) properly classify and consistently assess biopharmaceutical industry equipment. The assessor implemented the first recommendation. Since the Board staff is currently reviewing the valuation of biopharmaceutical industry equipment, we will not repeat the second recommendation.

### ***Business Equipment Valuation***

We made three recommendations: (1) to make estimated assessments based upon available information as required by section 501, (2) to properly assess personal property in apartments, and (3) to use Assessors' Handbook Section 581 as intended. We found no inappropriate estimated assessments based upon available information as required by section 501, and, therefore, we do not repeat this recommendation. Furthermore, the assessor has implemented recommendations two and three.

***Vessels***

We recommended the assessor annually assess vessels at market value. The assessor still has no substantiation for using a pre-determined depreciation rate when assessing vessels. However, the Board is currently in the process of developing valuation tables to determine market values for vessels on an annual basis, and, therefore, until this process is completed, we will not repeat this recommendation.

***Manufactured Homes***

We recommended the assessor: (1) use the Board's manufactured home unit cost table as intended, (2) apply the inflation factor as required by section 75.18 for changes in ownership of manufactured homes that occur between January 1 and June 30, and (3) enroll manufactured homes as personal property. The assessor has implemented all of these recommendations.

***Animals***

We recommended the assessor assess all taxable animals. The assessor has implemented this recommendation.

***Racehorse Administrative Tax***

We recommended the assessor develop formal procedures for the annual racehorse in lieu-tax program. We found adequate procedures are in place for proper racehorse valuations in accordance with sections 5701 through 5790.

## **OVERVIEW OF SANTA CLARA COUNTY**

Santa Clara County, formed in 1850, was one of the original 27 counties of California. The county is named after Mission Santa Clara, which was established in 1777. The county seat is the City of San Jose. San Jose was one of the first incorporated cities in California and site of the first state capital. In addition to the City of San Jose, Santa Clara County contains the following 14 incorporated cities: Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, Saratoga, and Sunnyvale.

The county encompasses a total area of 1,304 square miles. As of July 1, 2005, Santa Clara County had an estimated population of about 1,700,000.<sup>3</sup> Santa Clara County is bounded on the north by Alameda County, to the northwest by San Mateo County, to the east by Stanislaus and Merced County, to the south by San Benito County, and to the south and southwest by Santa Cruz County.

Santa Clara County is home to "Silicon Valley," which refers to the high concentration of semi-conductor and computer-related industries in the area. Some notable companies are Adobe Systems, Advanced Micro Devices, Apple Computers, eBay, Google, Hewlett Packard, and Intel.

The following table displays information pertinent to the 2006-07 assessment roll as provided by the assessor:<sup>4</sup>

<b>ROLL</b>	<b>ASSESSMENTS</b>	<b>NET ASSESSED VALUE</b>
Secured Roll	462,231	\$243,326,089,125
Unsecured Roll	72,269	\$18,589,202,735
Total Assessment Roll	534,500	\$261,915,291,860

<sup>3</sup> U.S. Census Bureau's population finders' website.

<sup>4</sup> The roll totals are net of all exemptions other than the homeowners' exemption.

The next table illustrates the growth in assessed values for recent years as reported in the Board's annual reports.<sup>5</sup>

<b>ROLL YEAR</b>	<b>TOTAL ROLL VALUE</b>	<b>INCREASE</b>	<b>STATEWIDE INCREASE</b>
2006-07	\$261,918,092,000	9.1%	12.3%
2005-06	\$240,144,713,000	8.0%	11.1%
2004-05	\$222,379,060,000	2.2%	8.3%
2003-04	\$217,505,550,000	3.2%	7.3%
2002-03	\$210,851,193,000	N/A	N/A

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<sup>5</sup> State Board of Equalization Annual Report, Table 7. The assessment roll data in the Board's annual report is provided by the Santa Clara County Controller. Their reported total roll value was modified to reflect the assessment roll net of both the homeowners' exemption and the historical aircraft exemption.

## ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, the State-County Property Tax Administration Program (PTAP), appraiser certification, assessment appeals, disaster relief, assessment roll changes, exemptions, the racehorse administrative tax, and assessment forms.

### **Budget and Staffing**

The following table shows the assessor's operating budgets for recent years (PTAP funds are not included in the gross budget figures):

<b>BUDGET YEAR</b>	<b>GROSS BUDGET</b>	<b>INCREASE</b>	<b>PERMANENT STAFF<sup>6</sup></b>	<b>PTAP FUNDS RECEIVED</b>	<b>PTAP STAFF</b>
2006-07	\$24,730,349	6.27%	243		49
2005-06	\$23,269,761	9.43%	242	\$4,213,639	49
2004-05	\$21,264,508	4.14%	242	\$4,213,639	40
2003-04	\$20,419,127	5.99%	242	\$4,213,639	40
2002-03	\$19,263,978	N/A	247	\$4,213,639	33

### **Staffing**

The assessor's staffing level has fluctuated slightly over the past five years. For the 2006-07 budget years, the number of permanently budgeted staff, including the assessor, was 243.<sup>7</sup> The assessor's office is divided into five divisions, consisting of: (1) Administrative with 10 positions, including the assessor and assistant assessor positions; (2) Assessment Standards, Services, and Exemption with 62 positions; (3) Real Property with 92 positions; (4) Business Personal Property with 66 positions; and (5) Information Services with 13 positions.

### **Staff Property Procedures**

We reviewed property records and written policies to determine if the assessor has proper procedures in place to ensure that staff does not value their own properties for property tax purposes. Our review determined that the assessor has a written policy prohibiting employees from valuing property in which they or any member of their immediate family has an interest. Appraisals for properties owned by the real property and audit staff, including the assessor and the assistant assessor, or their immediate family members, are assigned by a supervising appraiser or supervising auditor-appraiser to another appraiser or auditor-appraiser for

<sup>6</sup> The number of staff from Santa Clara County Assessor's adopted budget for fiscal years 2002-03 to 2006-07.

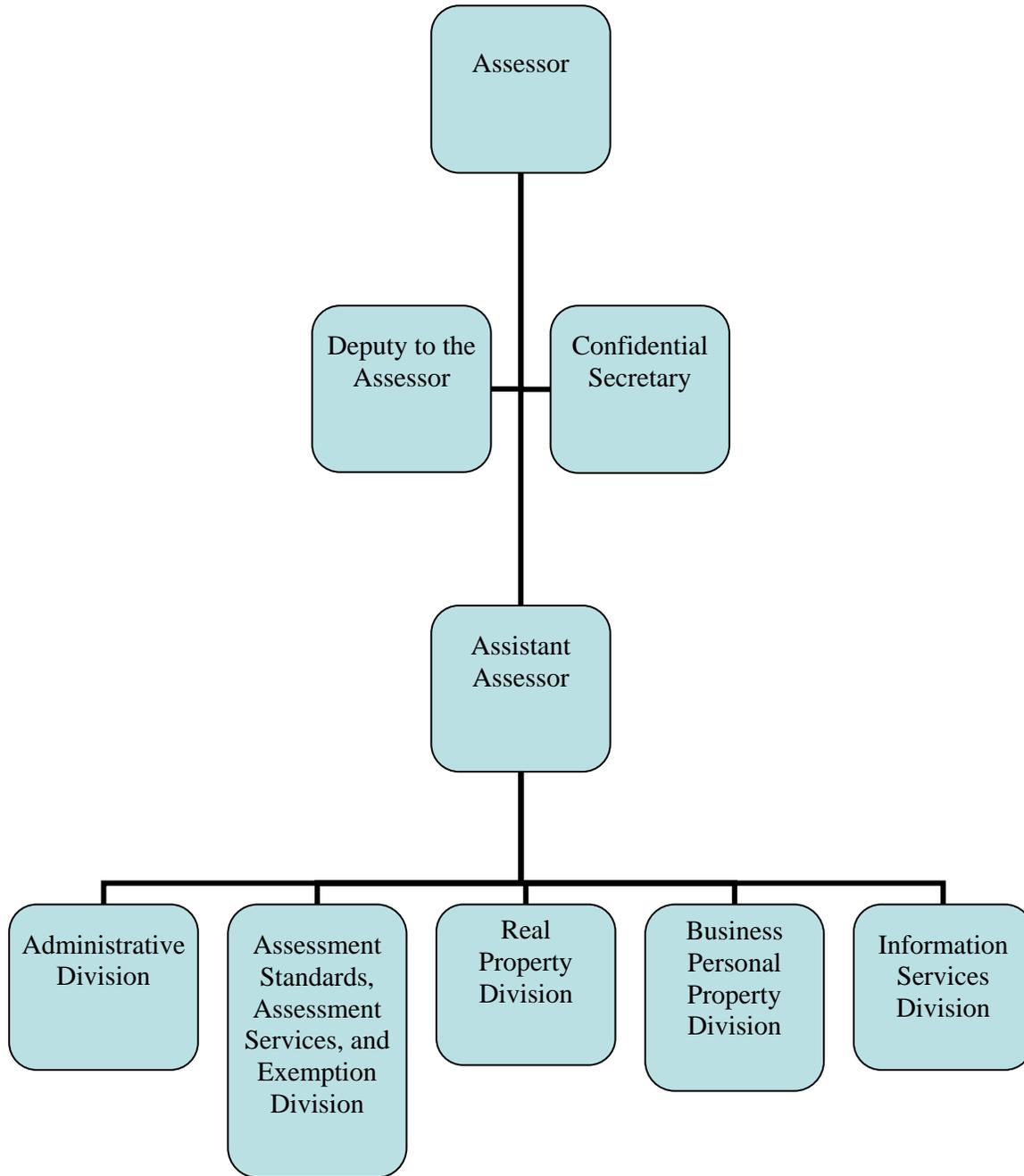
<sup>7</sup> Does not include positions funded by PTAP monies.

valuation. When the appraisal is completed, the files are reviewed by the supervisor before the values are enrolled. We reviewed a number of employee-owned property appraisal files and found no problems with employee valuations.

All employees of the assessor's office are required to file a *Property Ownership Record* when first hired. Each year thereafter, employees are required to complete and submit a new *Property Ownership Record*. The *Property Ownership Record* provides the assessor with information regarding real and business property owned by the assessor's employees and their spouses. Information on the *Property Ownership Record* identifies employee-owned property located within Santa Clara County, and ensures all employee-owned properties are being properly assessed.

Assessor's Organization Chart

Following is an organization chart of the assessor's office:



**State-County Property Tax Administration Program**

In 1995, the Legislature established the State-County Property Tax Administration Program (PTAP). This program, which was later entitled the State-County Property Tax Administration

Loan Program (Loan Program), provided state-funded loans to eligible counties for the improvement of property tax administration.<sup>8</sup> This program expired June 30, 2001, and was replaced with the Property Tax Administration Grant Program (Grant Program), which was available to counties for fiscal years 2002-03 through 2005-06.<sup>9</sup> The Grant Program operates in essentially the same manner as the Loan Program except that if a county does not meet its performance criteria, the county will not be obligated to repay the grant but will be ineligible to continue to receive the grant.

If an eligible county elects to participate, the county submits a resolution, as described in section 95.35 (b), to the State Department of Finance. The resolution provides that the county must agree to maintain base funding and staffing levels in the assessor's office equal to the funding and staffing levels for the 1994-95 fiscal years. This requirement prevents a county from using PTAP funds to supplant the assessor's existing funding.

For most counties, the resolution provides that verification of performance is provided to the State Department of Finance by the county auditor-controller.

The Santa Clara County Assessor has participated in the PTAP since its inception in 1995. For contract year 2005-06, the state and county agreed to PTAP funding of \$4,213,639. The counties required base funding and staffing levels for the assessor's office are \$14,348,010 and 242 positions, respectively. The assessor's funding and staffing levels have never fallen below the base levels. The Santa Clara County Auditor-Controller has certified to the State Department of Finance that the county met the contractual requirements for loan repayment for every year under contract.

For contract year 2005-06, the assessor proposed to use PTAP funds to hire 49 additional personnel, consisting of 5 positions in the Information Services Division, 31 positions in the Business Personal Property Division, 2 positions in the Real Property Division, and 11 positions in the Assessment Standards, Services, and Exemption Division. PTAP funds were also used for supplies, for reimbursement of county counsel costs incurred in the litigation of property tax issues, and for projects in the tax collector's office.

The increase in staffing has allowed the assessor to complete mandatory and nonmandatory audits; to enroll new business accounts, new construction, and transfers; to resolve assessment appeals; and to annually review properties experiencing declines in value.

### ***Appraiser Certification***

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid certificate issued by the Board. There are a total of 115 certified appraisers on staff, including the assessor, and 84 hold advanced certificates. To encourage his staff to obtain their advanced certificates, the assessor offers an additional salary incentive.

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<sup>8</sup> Chapter 914, Statutes of 1995, in effect October 16, 1995.

<sup>9</sup> State-County Property Tax Administration Program funding has been suspended for two years, beginning with the 2005-06 California State Budget.

We found, except as noted below, that the assessor and his staff all possess required certificates. We also found that the auditor-appraisers performing mandatory audits meet the requirements referenced in section 670(d).

In our 2003 survey report, we recommended the assessor use certified appraisers to value aircraft and vessels. In our current survey, while we found that the assessor continues to use non-certified support staff to make the initial appraisal for new aircraft and vessels, the assessor uses certified staff to review the aircraft appraisals. However, the assessor does not use certified staff to value vessels. Therefore, we repeat this portion of our prior recommendation relating to vessels.

**RECOMMENDATION 1:** Use certified appraisers to value vessels.

Non-certified support staff in the Business Personal Property Division process vessel property statements, determines the values, and then enters the values into the computer system. We found no evidence that the values for the 2006-07 assessment roll were reviewed by a certified auditor-appraiser.

Section 670(a) provides that no person shall perform the duties, or exercise the authority of an appraiser for property tax purposes as an employee of the state, any county or city and county, unless he or she is the holder of a valid appraiser's or advanced appraiser's certificate issued by the Board. In Letter To Assessors 2003/68, dated October 29, 2003, at page 10, we stated that non-certified assistants may aid in the valuation of business property, including the valuation of vessels and aircraft by selecting and applying information from a valuation guide deemed appropriate by an appraiser. However, we also stated that an appraiser must *first* verify that the property is properly described and assessable, and that an appraiser must review the resulting value estimate.

By not using certified staff to value vessels initially or to review the resulting value estimates as provided by non-certified support staff, the assessor is not in compliance with section 670(a).

### **Assessment Appeals**

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeal process.

Santa Clara County Ordinance NS-300-247, adopted August 8, 1977, provides for the creation of the county's assessment appeals boards and defines its duties. Currently, there are two appeals boards. Each board consists of three members appointed by the board of supervisors. Assessment appeal hearings are held on the second and fourth Wednesday of each month. There are also two hearing officers, who rule on contested changes in ownership or new construction events.

Appeal applications are received by the clerk of the assessment appeals board. The clerk reviews the applications for completeness and verifies that they are timely filed. Electronic copies of the applications are forwarded to the assessor's Assessment Standards, Services, and Exemption Division. The Assessment Standards, Services, and Exemption Division also reviews the applications and distributes copies to the Real Property or Business Personal Property Divisions, as appropriate.

The assessor either prepares written responses or contacts the applicants by telephone. If the applicants decide to withdraw their appeals or agree to a stipulated value, the assessor sends a letter with a withdrawal or stipulation form for their signature. Withdrawal and stipulation forms are returned to the clerk of the assessment appeals board for disposition. If no agreement can be reached, the appeals process continues and is heard by the Assessment Appeals Board.

In Santa Clara County, no appeal has gone unresolved for more than two years, unless the taxpayer agreed to a waiver of the statute of limitations as provided by Rule 309(b). Approximately 3,000 appeals are filed annually. About 63 percent of appeals are resolved in the first year.

The following table shows the appeal workload for recent years:

APPEALS	ROLL YEAR				
	2005-06	2004-05	2003-04	2002-03	2001-02
<b>Total Appeals:</b>					
Applications Received	3,691	3,061	2,534	1,925	1,668
Carried Over	N/A	N/A	N/A	N/A	N/A
<b>Total</b>	<b>3,691</b>	<b>3,061</b>	<b>2,534</b>	<b>1,925</b>	<b>1,668</b>
<b>Resolution:</b>					
Denied-lack of appearance	319	378	316	260	238
Hearing-denied	12	15	29	56	40
Hearing-reduced	26	38	58	49	34
Hearing-increased	0	0	0	2	0
Hearing-upheld	20	33	34	38	22
Invalid	0	0	0	0	2
Stipulation	1,118	840	690	544	353
Withdrawn	1,952	1,690	1,333	924	918
Other determination	49	66	69	52	60
Disposition unknown	0	1	5	0	1
<b>Total</b>	<b>3,496</b>	<b>3,061</b>	<b>2,534</b>	<b>1,925</b>	<b>1,668</b>
<b>Carried over to next year*</b>	<b>195</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

\*Note: "Carried over to next year" includes appeals with time extensions by mutual agreement of the parties.

We reviewed several records of assessment appeals and found them to be well documented and complete.

**Disaster Relief**

Section 170 permits a county board of supervisors to adopt an ordinance that allows immediate property tax relief on qualifying property damaged or destroyed by misfortune or calamity. The property tax relief is available to the owner of any taxable property whose property suffers damage exceeding \$10,000 (without his or her fault) in a misfortune or calamity. In addition, section 170 provides procedures for calculating value reductions and restorations of value for the affected property.

To obtain relief under section 170, assesses must make a written application to the assessor requesting reassessment. Alternatively, if the assessor is aware of any property that has suffered

damage by misfortune or calamity, then the assessor must either provide the last known assessee with an application for reassessment or revalue the property on the lien date.

Upon receipt of a properly completed application, the assessor shall reassess the property for tax relief purposes. If the sum of the full cash values of the land, improvements, and personal property before the damage or destruction exceeds the sum of the values after the damage by \$10,000 or more, the assessor shall then determine the percentage reductions in current market value and reduce the assessed values by those percentages.

The Santa Clara County Board of Supervisors has adopted a disaster relief ordinance that provides relief for any taxable property that is damaged or destroyed by misfortune or calamity. The ordinance was updated March 26, 2002, and conforms to all current statutory provisions.

The assessor discovers calamities by reviewing newspaper articles and building permits, field canvassing, and taxpayer-initiated contacts. The assessor also requests monthly incident reports from fire protection agencies in the county. By reviewing these incident reports, the assessor becomes aware of any fires and other misfortunes or calamities that may have an adverse impact on a property's value.

We found that the assessor promptly sends applications for disaster relief to property owners who request them. The assessor maintains a *Calamity Relief Application Request Log* to track the claim process. The following table lists the number of applications processed in recent years:

<b>ROLL YEAR</b>	<b>CALAMITY APPLICATIONS</b>
2006-07	16
2005-06	36
2004-05	33
2003-04	35
2002-03	41

We reviewed a number of records and found that the assessor noted the disaster information on the property records, correctly performed all of the value calculations, properly lowered the assessed values, and, where applicable, processed mid-year tax relief for the property owners. However, we found one area where improvement is needed.

**RECOMMENDATION 2:** Include the assessment appeals information required by section 170(c) on the disaster relief reassessment notice.

The assessor uses a *Notification of Adjusted Assessment* to notify property owners of proposed disaster relief reassessments. The notice does not inform property owners of their assessment appeal rights as required by section 170(c).

The notice incorrectly states that if the assessee does not agree with the proposed reassessment of the disaster-affected property, the assessee has 60 days from the date of the notification letter to file an *Application for Changed Assessment*. Section 170(c) provides that the applicant may appeal the proposed reassessment to the local board of equalization within six months of mailing the notice.

The assessor's practice provides misinformation to the taxpayer regarding the time period to file an appeal of a disaster relief reassessment.

**Assessment Roll Changes**

Each year the assessor must complete the local assessment roll and deliver it to the auditor by July 1. Once the roll is delivered to the auditor, any correction that would decrease the amount of the unpaid taxes requires the consent of the board of supervisors. All changes to the roll are authorized by specific statutes, and any roll change must be accompanied by the appropriate statutory reference.

Assessment roll changes fall under two general categories: escape assessments and corrections. An escape assessment is an assessment of property that was not assessed or was underassessed, for any reason, on the original roll. A correction is any type of authorized change to an existing assessment except for an underassessment caused by an error or omission of the assessee.

The following table shows the number of roll changes processed for recent years:

ROLL YEAR	ROLL CHANGES
2006-07	14,401
2005-06	11,258
2004-05	11,548

We found that roll changes are made within the authorized period of time and that the assessor properly sends a *Notice of Proposed Escape Assessment* to inform taxpayers of the increase in taxable value for the fiscal year affected. The notice contains all the information required by section 531.8.

The assessor also properly notifies taxpayers of the enrollment of an escape assessment. Section 534(b) mandates that an escape assessment is effective only after the assessee has been notified. In Santa Clara County, the assessor uses form BOE-66-A, *Notice of Enrollment of Escape Assessment*, to notify taxpayers of the enrollment of an escape assessment.

**Low-Value Property Tax Exemption**

Section 155.20 authorizes a county board of supervisors to exempt all real property with a base year value, and personal property with a full value, so low that the total taxes, special

assessments, and applicable subventions on the property would be less than the assessment and collection costs if the property were not exempt.

Section 155.20(b)(1) provides that a county board of supervisors shall not exempt property from taxation with a total base year value or full value of more than \$5,000, or more than \$50,000 in the case of certain taxable possessory interests. A board of supervisors must adopt a low-value property tax exemption ordinance before the lien date for the fiscal year to which the exemption is to apply. At the option of the board of supervisors, the exemption may continue in effect for succeeding fiscal years.

The Santa Clara County Board of Supervisors adopted its current low-value property tax exemption ordinance on May 5, 1998. The ordinance applies the low-value property tax exemption to personal property accounts that have a total value of \$5,000 or less. When business property statements are returned, the assessor uses information from the statements to calculate the market values of assessee's taxable personal property. For the 2006-07 unsecured roll, we found 1,733 accounts with a value of \$5,000 or less. We found no problems with the assessor's application of the low-value property tax exemption to personal property. However, we did find that the assessor incorrectly applies the tax exemption to real property.

In our 2003 survey report, we recommended the assessor properly apply the low-value property tax exemption. At that time, the assessor was erroneously exempting: (1) some aircraft with values greater than \$5,000, and (2) taxable possessory interests having a value of \$2,000 or less. During our current survey, we found that the assessor is now correctly exempting only those aircraft with a value of \$5,000 or less; however, he still is incorrectly exempting taxable possessory interests having a value of \$2,000 or less. Therefore, we repeat our prior recommendation.

**RECOMMENDATION 3:** Properly apply the low-value property tax exemption.

We found a number of taxable possessory interests at the Santa Clara County Fairgrounds that the assessor exempted because the assessed value was \$2,000 or less. Taxable possessory interests are considered real property. However, the county's low-value property tax exemption ordinance does not apply to real property. By applying the exemption to a class of property not excluded by the low-value property tax exemption ordinance, the assessor is allowing property to escape assessment.

## ***Exemptions***

### **Church and Religious Exemptions**

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship, when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the

requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

In the Santa Clara County Assessor's Office, individual exemptions (homeowners', veterans', and disabled veterans' exemptions), institutional exemptions (religious, church, and welfare), and historical aircraft exemptions are processed by the Assessment Standards, Services, and Exemptions Division, with a staff of one exemptions manager, one exemptions supervisor, two exemptions investigators, six assessment technicians, and one office specialist. Staff is guided by Letters To Assessors, Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, and an instructional manual provided at a Board welfare exemption workshop conducted in March 2006.

For the 2006-07 assessment roll, the assessor processed 175 church exemption claims and 659 religious exemption claims. The following table illustrates the number of properties and the amount of assessed value exempt under the religious and church exemptions for recent years:

<b>ROLL YEAR</b>	<b>RELIGIOUS</b>	<b>EXEMPTED VALUE</b>	<b>CHURCH</b>	<b>EXEMPTED VALUE</b>
2006-07	659	\$538,848,824	175	\$120,762,663
2005-06	674	\$531,025,528	173	\$98,499,282
2004-05	677	\$530,785,232	180	\$84,727,298
2003-04	645	\$442,316,302	198	\$88,720,314
2002-03	679	\$414,151,678	216	\$89,728,478

Our review of the assessor's religious exemption program shows that the assessor adheres to the statutory filing requirements. Once the religious exemption is granted, the assessor annually sends out form BOE-267-SNT, *Religious Exemption Change In Eligibility Or Termination Notice*, to the claimant. If a claimant fails to return the annual termination notice, the assessor contacts the claimant to verify continued eligibility for the religious exemption. We found no problems in the assessor's religious exemption program.

Pursuant to sections 255 and 256, claimants for the church exemption are required to file an annual claim using form BOE-262-AH, *Church Exemption Claim*. When applicable, the

exemption for late-filed claims is limited to 85 or 90 percent as required by section 270. We found no problems with the assessor's church exemption program.

**Welfare Exemption**

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property used exclusively for religious, hospital or charitable purposes and owned or held in trust by a corporation or other entity. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. The welfare exemption from local property taxation is available for property owned and used exclusively for qualifying religious, hospital, scientific, or charitable purposes by organizations formed and operated exclusively for those purposes. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the Board and county assessors. The Board is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing *Organizational Clearance Certificates* (OCCs) to qualified nonprofit organizations. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the Board; and, if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner, then it must also hold a valid *Supplemental Clearance Certificate* (SCC) issued by the Board. The assessor may, however, deny an exemption claim, based on non-qualifying use of the property, notwithstanding that the Board has issued an OCC or SCC to the claimant.

The following table shows the number of properties and the amount of assessed value exempt under the welfare exemption for recent years:

ROLL YEAR	WELFARE	EXEMPTED VALUE
2006-07	1,608	\$5,079,418,015
2005-06	1,653	\$4,849,703,224
2004-05	1,601	\$4,207,956,984
2003-04	1,462	\$3,604,596,782
2002-03	1,456	\$3,051,596,569

We reviewed a sample of welfare exemption claims, concentrating on the following areas:

- New claims
- Status of OCCs
- Claims denied for any reason
- Partial exemptions for "late filed" claims pursuant to section 270
- Mid-year acquisitions eligible for cancellation or proration of taxes pursuant to section 271.

Other properties we reviewed included elderly and low-income housing, hospitals and multi-specialty medical clinics, institutionally necessary housing, and exempt organizations subject to mandatory audits pursuant to section 469.

We found the assessor properly included large claimants in his mandatory audit program since they are not fully exempt from property taxation. The assessor has a good program for administering the welfare exemption.

### ***Racehorse Administrative Tax***

Racehorses domiciled in California are subject to an annual tax in-lieu of ad valorem property taxes. Sections 5701 through 5790 outline the provisions of this tax. Specific procedures and forms are prescribed by Rules 1045 through 1047. Rule 1045(c) requires the assessor to furnish Board-prescribed forms to racehorse owners for reporting the in-lieu tax.

Racehorses within the state are registered with the California Horse Racing Board. According to section 5703, a "racehorse" means a horse that is or will be eligible to participate in a horseracing contest in California where pari-mutuel wagering is permitted. Qualifying horses include stallions, mares, geldings, ridgelings, colts, fillies, and foals.

Each year the assessor sends form BOE-571-J1, *Annual Report of Boarded Racehorses*, to owners of ranches and stables that board racehorses in Santa Clara County. The forms are sent out no later than December 15, prior to the calendar year in which the tax is due. The form instructs the ranch and stable owners to list all boarded racehorses at their ranch or stable as of 12:01 a.m., January 1. When the forms are returned, an appraiser reviews the forms for completeness.

Rule 1045(c)(2) requires the assessor to maintain a record of those persons believed to be liable for the annual racehorse tax and to whom the assessor has furnished copies of the forms. A copy of this record shall be delivered to the tax collector's office so that the tax collector can be cognizant of taxpayers that may file a return. The tax returns, along with payments, are submitted directly to the tax collector. If applicable, the tax collector applies the appropriate late-filing penalties and interest.

During our current survey, we found that racehorses in Santa Clara County are being properly valued in accordance with sections 5701 through 5790.

### **Assessment Forms**

Government Code section 15606 requires the Board to prescribe and enforce the use of all forms for the assessment of property for taxation.<sup>10</sup> For the 2006 lien date, the Board prescribed 80 forms for use by county assessors and one form for use by county assessment appeals boards. Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form provided that the assessor submits such form to the Board for review and approval. Assessors may also use county-developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for Board-prescribed forms that are required to be used, and no penalty may be imposed upon a property owner for failure to file such form or questionnaire.

To enforce the use of prescribed forms, the Board annually requires assessors to specify in writing the forms they will use in the succeeding assessment year. Assessors are also required to submit to the Board copies of the final prints of all prescribed forms they intend to use.

A review of the forms used by the Santa Clara County Assessor's Office for the year 2006 revealed the following:

- Of the 80 Board-prescribed forms, the assessor used 66.
- Of those 66 forms used, the assessor rearranged 7.
- The assessor has 14 Board-prescribed forms and 10 locally developed forms on the assessor's website.
- The assessor has approximately 330 locally-developed forms, form letters, and questionnaires.

We found no problems in the assessors' administration of assessment forms.

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<sup>10</sup> Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.

## **ASSESSMENT OF REAL PROPERTY**

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts, taxable government-owned property, and property in Timberland Production Zones.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, adjusted annually for inflation by a factor not to exceed two percent.

### ***Change in Ownership***

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from change in ownership for property tax purposes. Section 50 requires the assessor to establish a base year value for real property upon a change in ownership; a property's base year value is its fair market value on the date of change in ownership.

### **Document Processing**

The Santa Clara County Recorder electronically transmits all recorded documents daily to the assessor. Annually, the assessor receives approximately 93,000 recorded documents from the recorder. Approximately 35 percent of these documents are reappraisal events. The assessor's Ownership Identification Unit examines all recorded documents to determine which ones result in reappraisable events.

The following table shows the number of reappraisals resulting from recorded documents for recent years:

ROLL YEAR	DOCUMENTS RECEIVED	REAPPRAISABLE EVENTS
2006-07	85,595	40,061
2005-06	91,585	42,873
2004-05	100,692	34,686
2003-04	101,254	31,628
2002-03	86,190	25,220

The Ownership Identification Unit adds the data from all recorded documents which indicate a change in ownership into the Assessor's Information Management System (AIMS). Deeds that create lot line adjustments, lot splits or other newly created parcels, or which include metes and bounds descriptions, are forwarded to the Mapping Unit. This unit assigns the assessor's parcel number (APN) and sends the data back to the Ownership Identification Unit for addition to AIMS. Santa Clara County does not have an ordinance requiring the recorder to place the assessor's parcel number on recorded documents.

Recorded documents that involve the transfer of ownership in partnerships, corporations, and trusts; parent-child transfers; and other more complex transactions are routed to the Property Transfer Unit for more intensive review. The Assessment Standards, Services, and Exemption Division reviews all decisions made by the transfer analysis staff. This division also generates the *Parcel Activity List* (PAL) that is given to appraisers to notify them of reappraisable events.

Every six weeks, the PAL and any additional data are transmitted to the appraisers. From the data on the PAL, an appraiser can access the scanned images for each change in ownership package. If a form BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), or sales verification letter indicates a sale involved unusual financing, a trade, or included personal property, the appraiser is responsible for further investigation to determine if a cash equivalency adjustment is justified.

Approximately 90 percent of the deeds received from the recorder have PCORs attached. The recorder charges a \$20 fee when a deed is recorded without a PCOR.

### Section 408.1 Transfer Lists

Section 408.1 requires that the assessor maintain a list, available to the public, showing property transfers that have occurred in the prior two years. The list is divided into geographic areas and must include the names of the transferor and transferee, if available, APN, address of the property sold or transferred, date of transfer, date of recording, recording reference number, and, if known, the amount of consideration paid.

The assessor makes available to the public a computer listing showing property transfers that have occurred over the last two years. This list is updated quarterly as required section 408.1. Properties are listed by APN in numeric order, with all the required information. Thus, we conclude that the assessor's transfer list substantially complies with the statutory requirements of section 408.1.

**Section 69.5 Base Year Value Transfers**

Section 69.5 generally allows for the transfer of the base year value of a principal residence to a replacement residence of equal or lesser value, provided the property owner is at least 55 years of age or is severely and permanently disabled, the owner files a claim timely, and the properties are within the same county unless the county adopts an ordinance accepting transfers from other counties. We reviewed several base year value transfers and found all documents to be in compliance. The transfer staff prepares and submits the section 69.5 reports quarterly as required by section 69.5(b)(7).

**Section 63.1 Parent / Child Exclusions**

Section 63.1 excludes from the definition of change in ownership the purchase or transfer of the principal residence and the first \$1 million of other real property between parents and children. Under limited circumstances, the exclusion is extended to transfers from grandparents to grandchildren. Information regarding the provisions of section 63.1 is available at the assessor's public counter along with claim forms. Forms are also available on the assessor's website. We reviewed several of these types of transfers and found all documents to be in compliance.

The following table shows the number of section 63.1 and section 69.5 filings for recent years:

<b>ROLL YEAR</b>	<b>SECTION 63.1</b>	<b>SECTION 69.5</b>
2006-07	3,018	498
2005-06	3,332	455
2004-05	1,704	279
2003-04	1,781	N/A

**Legal Entity Ownership Program (LEOP)**

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and its subsidiaries. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and hence either do or do not constitute a corresponding change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors because ordinarily there is no recorded notice of the real property transfer.

To help assessors, the Board's LEOP unit investigates and verifies changes in entity control and legal ownership reported by legal entities, transmitting to each county a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, many of the acquiring entities do not provide information sufficient enough to identify the real property. Because of the limited data provided by many entities, assessors should independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

The Santa Clara County Assessor has reorganized its legal entity ownership program to provide a thorough and timely processing of these types of transfers. The assessor is currently working with other assessors' offices and the Board to coordinate the proper assessment of property owned by legal entities with assets in multiple counties.

Overall, the assessor has an effective program for the assessment of changes in ownership.

### ***New Construction***

Section 70 defines newly constructed property, or new construction, as: (1) any addition to real property since the last lien date; or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c), (d), and (e), and sections 73 through 74.7 address these exclusions.

### **Discovery**

In Santa Clara County, building permits are the assessor's primary means of discovering assessable new construction. Currently, the assessor receives permits from 16 permit-issuing agencies. The assessor also discovers new construction during field canvassing by appraisers in their assigned areas, and through a review of business property statements, multiple listing services, and building violation reports.

The assessor receives permits either electronically or as a hard copy on a weekly or monthly basis, depending on the issuing agency. All issued permits, both electronic and hard copies, are transmitted to the assessor. Permits transmitted electronically are culled by the assessor's computer system, which recognizes permits that are "nonassessable." All permits received in

hard copy form are entered into the computer system, placed on the appropriate *Parcel Activity List*, and forwarded to the appraisers for review and valuation. For these permits, the assigned appraiser determines if any permits need to be culled.

For permits that may involve business property, the Real Property Division sends a form called *Leasehold Improvements Referral to be Reviewed by Auditor Appraiser in Business Division* to alert the Business Personal Property Division. Conversely, the Business Personal Property Division sends a report entitled *Schedule of Leasehold Improvements to be Reviewed by Real Property Appraiser* to alert the Real Property Division of potential new construction reported on the business property statement or discovered during an audit. These forms serve as communications documents between the Real Property and Business Personal Property Divisions to ensure the assessment of completed new construction in a timely manner and to prevent escaped assessment of completed new construction.

The following table shows the number of assessable permits resulting from permits issued for recent years:

<b>ROLL YEAR</b>	<b>PERMITS ISSUED</b>	<b>ASSESSABLE PERMITS</b>	<b>VALUE ADDED</b>
2006-07	28,478	9,440	\$1,617,444,604
2005-06	26,672	8,922	\$2,477,021,853
2004-05	25,205	8,040	\$1,626,377,670
2003-04	26,715	9,083	\$2,635,500,210
2002-03	28,263	9,698	\$3,660,163,625

**Valuation**

In valuing new construction, the assessor uses all appropriate approaches to value. However, the primary method is the cost approach. The assessor uses Assessors' Handbook Section 531, *Residential Building Costs (AH 531)*, *Marshall Valuation Service*, and the owner's actual cost, if available. Unit cost factors and the source of the costs are documented on the property record.

Overall, the assessor has an effective assessment program for new construction. However, we did find one problem. While the assessor correctly exempts newly planted orchards for the first four years after the season of planting in orchard form in accordance with article XIII, section 3(i) of the California Constitution and Rule 131, newly planted vineyards are incorrectly granted an exemption for the first four years after planting in vineyard form instead of the first three years as required by article XIII, section 3(i) of the California Constitution and Rule 131. We provide a recommendation to correct this practice later in this report's discussion of California Land Conservation Act properties.

***Declines in Value***

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its factored base year value on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its factored base year value, then the assessor must enroll the factored base year value.

The following table shows the number of decline-in-value assessments processed by the Santa Clara County Assessor for recent years:

<b>ROLL YEAR</b>	<b>DECLINES IN VALUE</b>
2006-07	6,503
2005-06	4,442
2004-05	24,743
2003-04	33,365
2002-03	29,014

The assessor has developed two computer programs to assist in discovering, valuing, and annually reviewing single-family residential properties that have declined in value.

The discovery of declines in value for properties other than single-family residences requires a more individualized approach. One method employed by the assessor is that appraisers use their familiarity with their assigned geographic area and specialty. Other methods of discovery employed by the assessor are using information taken from taxpayer requests for value reviews and assessment appeals for declines in value.

We reviewed 20 decline-in-value properties and found them to be well documented and their values well supported. The assessor has an effective program for declines in value.

***Supplemental Assessments***

Sections 75 through 75.80 mandate supplemental assessments for changes in ownership and the completion of new construction. A supplemental assessment is an assessment that reflects the increase or decrease in assessed value resulting from a change in ownership or completion of new construction for the fiscal year. If a change in ownership or completion of new construction occurs between January 1 and May 31, two supplemental assessments result from the same event: one for the remainder of the current fiscal year, another for the entire next fiscal year. Clarification regarding supplemental assessments resulting from the completion of new construction is contained in Rule 463.500.

The assessor processes supplemental assessments for secured real property using an automated system. Appraisers initiate the process. The automated system calculates the supplemental

assessment amount and generates the notice to the taxpayer. The *Notice of Supplemental Assessment* generated by the automated system includes all of the information required by section 75.31.

After sending the notices to property owners, the assessor forwards supplemental assessment information to the county tax collector for billing. Most supplemental tax bills are issued within 90 days from the date of notice of supplemental assessment. This process ensures the processing of supplemental assessments in a timely manner.

We examined several new construction and transfer events and found that the assessor appropriately processes small value and negative supplemental assessments. The assessor correctly issues two supplemental assessments for events occurring on or after January 1, but on or before May 31, and one supplemental assessment for events occurring on or after June 1 but before the succeeding January 1. Additionally, when a change in ownership or completion of new construction occurs on or after January 1, but on or before June 30, the assessor properly applies the inflation factor on the following lien date. We found no supplemental assessments processed outside of the statute of limitations set by section 75.11(d).

However, we did find one area of the assessor's supplemental assessment program that does not comply with property tax laws.

**RECOMMENDATION 4:** Issue supplemental assessments for taxable possessory interests.

It is the assessor's policy not to issue supplemental assessments for taxable possessory interests. Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completed new construction.

Section 75.5 provides that newly created taxable possessory interests established by month-to-month agreements and having a full cash value of \$50,000 or less are not subject to supplemental assessment. However, all other taxable possessory interests are subject to supplemental assessment.

Section 75.55(b) allows a county board of supervisors to adopt an ordinance authorizing the assessor to cancel supplemental assessments that would result in a tax liability less than the cost of assessing and collecting the taxes. However, under no circumstances does this provision allow any supplemental assessment to be canceled if the resulting taxes exceed \$50. At the time of our current survey, the Santa Clara County Board of Supervisors had not adopted such an ordinance.

The assessor's policy of not issuing supplemental assessments for taxable possessory interests results in a loss of revenue and is contrary to statute.

## **California Land Conservation Act Properties**

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses, e.g., hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

For the 2006-07 assessment roll, Santa Clara County had 3,161 parcels consisting of approximately 349,700 acres under CLCA contract, with approximately 12,000 acres in nonrenewal status (wherein either party to the CLCA contract, government agency or landowner, has served a notice of withdrawal from the contract). The total assessed value for CLCA properties in Santa Clara County for 2006-07 was approximately \$584,191,953. The majority of the land under contract is rated non-prime and is used primarily for grazing.

We reviewed parcels that were in nonrenewal status on the 2006-07 roll. Using a computerized program, the assessor is assessing these properties correctly.

In our 2003 survey report, we recommended the assessor deduct a capital investment allowance for irrigation wells, document base year values for all CLCA properties, and properly calculate the income charge to nonliving improvements. The assessor implemented two of the three prior recommendations, but has not implemented one; thus, it is repeated below in addition to three other recommendations for improvement.

**RECOMMENDATION 5:** Revise the CLCA program by: (1) classifying grapevines as improvements, (2) deducting a charge for return of the well value from income attributable to the property, (3) using an appropriate income stream to value vineyards and orchards, and (4) limiting the exemption period for vineyards to three years after the season of planting.

### **Classify grapevines as improvements.**

The assessor incorrectly classifies and enrolls grapevines as land. Section 105(b) provides that improvements include all fruit, nut bearing, or ornamental trees and vines. Further, Rule 122 provides that taxable planted fruit, nut trees, and vines constitute improvements. By classifying grapevines as land, the assessor is not following statutory provisions.

**Deduct a charge for return of the well value from income attributable to the property.**

The assessor does not deduct a charge for the return of the value in irrigation wells when using the income approach to value the CLCA property. Wells are classified as land for property tax purposes. The income attributable to the land includes a component attributable to the well. Pursuant to AH 521 (October 2003), Part II, at page 24, wells are wasting assets. Therefore, a charge for return of the well value must be subtracted from the income stream. By failing to deduct a charge for the recapture of the investment in the well, the assessor overstates the net income and overvalues the property.

**Use an appropriate income stream to value vineyards and orchards.**

We found the assessor uses a straight-line declining income premise when appraising vineyards and orchards in all stages of production. This premise assumes that net income declines in equal increments year after year.

AH 521 (October 2003), Part II, at pages 38 through 43, describes the various procedures for capitalizing tree and vine income. The appropriate method depends primarily on the shape of the anticipated income stream. The shape of the income stream of restricted living improvements is generally: (1) a period of development, when production initiates and rises; (2) a period of maturity, when production remains relatively stable; and (3) a period of decline, when production drops as the improvements near the end of their economic lives. It is common practice in California orchard and vineyard management to remove trees and vines once production begins to decline. In such cases, it would be appropriate to recognize only an inclining income period followed by a period of level production.

By not recognizing the stages of production of these CLCA properties, the assessor may be undervaluing vineyards and orchards.

**Limit the exemption period for vineyards to three years after the season of planting.**

The assessor incorrectly grants a fourth year of exemption for grapevines planted in vineyard form in direct contradiction of article XIII, section 3(i) of the California Constitution and Rule 131.

Grapevines become taxable upon expiration of the exemption period as set forth in article XIII, section 3(i) of the California Constitution and Rule 131(b). The exemption ceases on the fourth lien date after the season of planting vines in vineyard form.

***Taxable Government-Owned Properties***

Article XIII, section 3 of the California Constitution exempts from property taxation any property owned by local governments, except as provided in article XIII, section 11. Section 11 provides that land, and improvements thereon, located outside a local government's or local government agency's boundaries are taxable at a restricted value if the property was taxable at the time of acquisition. Improvements that were constructed to replace improvements that were

taxable when acquired are also taxable. These lands and taxable improvements are commonly referred to as taxable government-owned properties.

For the 2006-07 assessment roll, the assessor enrolled 142 taxable government-owned properties with a total assessed value of approximately \$19.1 million. Of these, 123 parcels with assessments totaling approximately \$12 million are owned by the City and County of San Francisco as part of the Hetch Hetchy water project.

The assessor determines if a government-owned property was taxable at the time of acquisition by comparing tax-rate area maps to the county's list of government agencies located within each tax-rate area. One supervising appraiser is responsible for the valuation of taxable government-owned properties annually at the lowest of its restricted value, its adjusted base year value, or its current fair market value.

We reviewed several taxable government-owned properties. In most instances the assessor correctly valued these properties. However, we noted some incorrect assessment procedures.

**RECOMMENDATION 6:** Improve the assessment program for taxable government-owned properties by: (1) documenting enrolled values, and (2) correcting valuation errors.

**Document enrolled values.**

We found properties that appeared on the assessor's list of taxable government-owned properties, but which did not appear on the restricted valuation spreadsheet. We were unable to determine how these properties were valued for the 2006-07 roll. In addition, it did not appear that these properties were subject to the comparison of their current market value, their factored base year value, or their restricted value as provided by the spreadsheet program.

We also found values that appeared in the assessed value column of the 2005 and 2006 restricted valuation spreadsheets that did not match the values that were enrolled for the 2005-06 or 2006-07 rolls.

The assessor's policy of not documenting the restricted values could result in the wrong value being enrolled.

**Correct valuation errors.**

In some instances, we found that the assessor keyed in incorrect base year values on the restricted valuation spreadsheet. In other instances, we found that the assessor used the market value at the time of the sale as the base year value, rather than the lower restricted value. We also found that the assessor did not use the restricted assessment factor in effect as of the date of the change in ownership, but rather used the assessment factor in effect for the next roll year.

Board guidelines set forth in LTA 2000/037, *Guidelines for the Assessment of Taxable Government-Owned Properties*, provide that base year values for taxable government-owned properties acquired after March 1, 1975 are established at the lower of current fair market value

or the value obtained by applying the appropriate restricted value factor to the 1967 assessed value as of the date of the change in ownership.

Although the assessor now establishes base year values correctly, there were a number of errors in the calculation of factored base years and the restricted values. The errors and use of the incorrect restricted value factor have resulted in overassessments of taxable government-owned properties.

### ***Timberland Production Zone Properties***

Lands zoned "Timberland Production Zone" (TPZ) are valued in accordance with special TPZ site classifications; the valuation of such lands excludes the value of any standing timber. The annual value of a TPZ property is determined by its appropriate per-acre site value (section 434.5) plus the lower of the current market value or the factored base year value of any compatible, nonexclusive uses of the property (section 435). Assuming that TPZ lands are not also under CLCA contract, the annual taxable value of TPZ lands is the lowest of: (1) TPZ value, (2) current market value, or (3) factored base year value.

The special valuation methods for TPZ lands do not apply to structures on TPZ lands or to reasonable sites for such structures. In other words, structures and the sites directly related to those structures are assessed as all other real property.

Santa Clara County has five TPZ parcels comprising 2,450 acres. For the 2006-07 roll, the total assessed value of the five parcels was \$146,820. All TPZ parcels are forested with pine-mixed conifer trees.

The assessor field reviews TPZ properties approximately every four years to discover changes and to accurately identify and value TPZ land. All TPZ properties are properly assessed.

### ***Taxable Possessory Interests***

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

For the 2006-07 assessment roll, the assessor enrolled 1,758 taxable possessory interests with a total assessed value of \$960,429,803. Each year the assessor sends form BOE-502-P, *Possessory Interests Annual Usage Report*, to 97 public agencies owning real property in the county, seeking information on private uses on publicly owned real property. The assessor estimates a response rate of 95 percent to his requests for information. A senior auditor-appraiser, under the guidance of a supervising real property appraiser, performs the majority of the taxable possessory interest appraisals.

We found three areas in the taxable possessory interest assessment program that need improvement. Two of the areas are presented below. The third issue, regarding not issuing supplemental assessments for taxable possessory interests, is discussed above, under the topic of supplemental assessments.

**RECOMMENDATION 7:** Improve the taxable possessory interest program by:  
(1) correctly calculating the base year value, and (2) annually determining the market value of a taxable possessory interest based on the stated term of possession as required by Rule 21.

**Correctly calculate the base year value.**

For some taxable possessory interests, the assessor uses a spreadsheet to calculate the base year value by the direct income approach. We found errors in his calculations that have led to the enrollment of incorrect base year values for a number of taxable possessory interests. For subsequent roll years, the assessor compares the incorrect factored base year value to the fair market value and enrolls the lesser of the two.

By miscalculating the base year value, the assessor's comparison in subsequent years between the factored base year value and the fair market value is flawed and may lead to the enrollment of an incorrect assessment, either an over- or under-assessment, for that roll year.

**Annually determine the market value of a taxable possessory interest based on the stated term of possession as required by Rule 21.**

We found the assessor does not follow Rule 21 when determining the market value of a possessory interest with a contract term for each lien date. When valuing a taxable possessory interest with a stated term of possession by the indirect income approach, the assessor determines the current fair market value of the land, calculates the present value of the reversionary value of the land at the end of the stated term of possession, and subtracts this value from the fair market value to arrive at the value of the taxable possessory interest. This same procedure is followed for subsequent roll years when determining the market value of these taxable possessory interests. However, rather than using the remaining term to calculate the present value of the reversionary interest in the land, the assessor uses the original stated term of possession.

Rule 21(d)(1) provides that a contract term of possession is presumed to be the reasonably anticipated term of possession unless there is clear and convincing evidence that the lessor and lessee have reached an understanding or agreement that is different than the stated term. Rule 21(a)(6) also states that the "stated term of possession" for a taxable possessory interest is the remaining period of possession based on the instrument that created, extended, or renewed the interest. As defined, the stated term of possession of a taxable possessory interest declines on each lien date, which may have a material effect on the value of the interest. Failing to use a declining term when valuing taxable possessory interests may overstate the taxable value of the possessory interest.

**Historical Properties**

Government Code section 50280 provides that an owner or agent of an owner of a qualified historical property may enter into a contract with the legislative body of a city, county, or city and county restricting the use of that property in exchange for valuation according to a statutorily prescribed capitalization of income method. Section 50280.1 provides that in order for a property to qualify as an historical property, it must be listed on the National Register of Historic Places or be listed on a state, county, or city register as historically or architecturally significant.

Historical properties are assessed annually at the lowest of the factored base year value, the current market value, or the restricted value. The restricted value must be determined by the income capitalization method, as provided in section 439.2. In this method, a fair or market rent less "ordinary and necessary" expenses is capitalized by a rate that is not derived from the market but is a summation of:

- An interest component that is determined annually by the Board;
- A risk component of two percent (four percent if the property is owner-occupied);
- A component for property taxes; and,
- A component for amortization of the improvements.

On the 2006-07 roll, Santa Clara County had 147 enforceably restricted historical properties with a total assessed value of \$50,478,190. The following table shows the number of restricted historical properties and their assessed values for recent years:

<b>ROLL YEAR</b>	<b>HISTORICAL PROPERTIES</b>	<b>ASSESSED VALUE</b>
2006-07	147	\$50,478,190
2005-06	128	\$47,354,610
2004-05	65	\$23,955,901
2003-04	48	\$12,776,189
2002-03	43	\$11,374,956

We reviewed a number of historical property files and found that each contained a copy of the historical property preservation agreement. We also found that assessed values are reviewed annually using economic rents in the income approach. The capitalization rate used includes all four required components (interest, risk, property tax, and amortization). However, we found some areas in the assessor's assessment program for historical properties that need improvement.

**RECOMMENDATION 8:** Assess enforceably restricted historical properties in accordance with section 439.2

We found the following areas where the assessor was not in compliance with section 439.2:

- The assessor does not maintain a market value indicator for historical properties.
- The assessor uses the same fixed property tax component in his capitalization rate for all historical properties.
- The assessor is not deducting all of the appropriate expenses from the gross revenue.

Section 439.2(d) provides that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The assessor, by not periodically determining the current market value for restricted historical properties, cannot comply with this requirement for a three-way comparison of values.

The assessor uses a fixed property tax component in developing the capitalization rate for historical properties. Sections 439.2(b)(3) and (c)(3) provide that a component for property taxes shall be a percentage equal to the estimated total tax rate for the assessment year. LTA 2005/035, dated June 2, 2005, further provides that the property tax component includes the basic tax rate of one percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. The assessor's estimated rate does not accurately reflect the actual tax rate for the location of the property.

We found that for historical properties that are residential in use, the assessor omits certain standard operating expenses and does not deduct for special taxes and direct assessments. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income, such as vacancy and collection loss, management, maintenance, insurance, and taxes.

The assessor's current program for the assessment of enforceably restricted historical properties is contrary to specific regulation and may result in incorrect assessments for these properties.

### ***Leasehold Improvements***

Leasehold improvements are all improvements or additions to leased property that have been made by the tenant or lessee. Such improvements can be secured to the real property or assessed to the lessee on the unsecured assessment roll.

Commercial, industrial, and other types of income-producing properties require regular monitoring by the assessor because, as tenants change over a period of time, they may add and/or remove improvements that may result in a changed use of the property. These changes must, by law, be reflected in the property's assessment if they qualify as new construction.

When real property is reported on form BOE-571-L, *Business Property Statement* (BPS), coordination between the real property and business personal property divisions of the assessor's office is important. The reported cost should be examined by both an appraiser in the real property division and an auditor-appraiser in the business personal property division. The divisions should determine the proper classification of the property to ensure appropriate assessment by each division and avoid escapes and double assessments. The assessor must determine whether costs are for repair and maintenance, and are therefore, not assessable, whether additions are properly classified as structural improvements or fixtures, and if additions are properly enrolled.

In Santa Clara County, the assessor has an established routine for sharing information between the Real Property and Business Personal Property Divisions in order to avoid double and escaped assessments. The Real Property Division uses a form to alert the Business Personal Property Division when a new permit is reviewed and action is taken. Conversely, the Business Personal Property Division uses two forms for the Real Property Division and sends a copy of forms BOE-571-L and BOE-571-D to the Real Property Division when the property statement indicates expenditures for structural leasehold improvements. All three leasehold improvement referral notices are in triplicate to ensure that both divisions can track the treatment of each tenant improvement as a real property improvement or as a business fixture.

When a BPS is filed on a secured account, it is forwarded to the Real Property Division for analysis. First, the real property appraisers review the BPS to determine if the reported items are structural improvements or fixtures. Then, the appraisers determine if the reported items have already been assessed by the Real Property Division as new construction, or if they are nonassessable or assessable new construction of real property.

The assessment of fixtures is the responsibility of the Business Personal Property Division. Permits that are not for structural improvements are referred by the Real Property Division to the Business Personal Property Division for review.

### Discovery

The primary discovery tools for leasehold improvements are business property statements, building permits, field checks, and bulk transfer notices. All costs reported on forms BOE-571-L and BOE-571-D are investigated when a four-year audit is conducted.

### Valuation

The assessor classifies structural items as real estate or business fixtures and assesses them at the lower of their factored base year value or current market value. Leasehold improvements are assessed to the lessee except when there exists a documented agreement between the lessor and lessee to do otherwise. When leasehold improvements are abandoned, the Business Personal Property Division de-activates the account and notifies the Real Property Division, which determines whether the leasehold improvements should be added to the lessor's secured account.

The Business Personal Property Division is responsible for assessing billboards. All billboards are assessed as fixtures. In addition, the Business Personal Property Division assesses cell towers. We found no problems with the assessor's valuation of cell towers or billboards.

### ***Water Company Properties***

Taxable water company property may include the property of private water companies, mutual water companies, and some property of government-owned water systems. Each type of water company property presents different assessment issues.

#### **Municipal Water Systems**

Article XIII, section 3(b) of the Constitution of California exempts from taxation property owned by a local government and located within its boundaries. Such property includes both property owned by city water departments and located within city limits and property owned by water districts and located within district boundaries. When a local government entity owns property located outside of the government agency's or district's boundaries, however, this exemption does not apply.

In our review of property owned by municipal water systems within Santa Clara County, we found one municipal water system in Santa Clara County with parcels located outside the agency's boundaries; it is properly assessed.

#### **Private Water Companies Regulated by the California Public Utilities Commission (CPUC)**

Private water companies are privately-owned utilities in business to earn a profit from the sale of water. This type of water company is subject to regulation by the CPUC and must submit annual reports to the CPUC. The CPUC regulates the rates charged by private water companies, limiting profits to a return on the company's unamortized investment in plant and equipment. Because the earning ability of a regulated private water company is tied to this "rate base," as it is known, the current market value of water company properties may be adversely affected by this restriction on earning capacity. The assessor should determine both the current market values and the factored base year values of such properties and enroll the lower of the two as the assessed value (Assessors' Handbook Section 542, *Assessment of Water Companies and Water Rights*, Part I, at p.14).

There are seven regulated water companies in Santa Clara County. We found the assessor uses both the historical cost less depreciation and the income approaches to value properties owned by these types of water companies, and correlates these value indicators into an assessed value. We found these values to be reasonable and the properties to be properly assessed.

#### **Private Water Systems Not Regulated by the CPUC**

Unregulated private water systems are similar to regulated water companies in that they are usually owned by individuals or corporations and are operated on a for-profit basis to supply water to commercial developments, such as manufactured home parks, resorts, and

campgrounds. However, they do not sell water for profit to customers in the same manner as regulated water companies. We reviewed several assessments of property owned by these types of companies and found that the assessor correctly values these properties.

### Mutual Water Companies

A mutual water company is a private association created for the purpose of providing water at cost primarily for its stockholders or members. When incorporated, the association can enter into contracts, incur obligations, own property, and issue stock. However, if unincorporated, it can do these things only in the names of its members. Corporations organized for mutual water company purposes are not subject to regulation by the CPUC unless they deliver water for compensation to persons other than stockholders and members.

We found one area needing improvement in the assessor's assessment program of mutual water companies.

**RECOMMENDATION 9:** Obtain articles of incorporation for all mutual water companies.

We were able to identify 23 mutual water companies operating within Santa Clara County. We found that all the properties of these companies have been assessed separately from the residential lots they serve. This appears to result in a double assessment of these properties owned by the mutual water companies. However, we did not find copies of any articles of incorporation for the mutual water companies in the appraisal files. Without the articles of incorporation, it is very difficult to determine whether all property owned by a mutual water company is properly assessed. To properly allocate the value for a mutual water company system, the assessor must know whether ownership shares in the company are appurtenant to the land parcels served. Examples of when a mutual water company's land, improvements, and delivery system may be separately assessed from the service parcels include: (1) when stock in the mutual company is not appurtenant to land, and (2) when the company's water system (land and improvements) is not in the company's name.

All of the information needed to properly value mutual water companies can be found in the company's articles of incorporation. A more in-depth discussion of the valuation of mutual water companies can be found in Assessors' Handbook Section 542, *Assessment of Water Companies and Water Rights*.

Because the value of water company property is typically included in the value of the land that it serves, the assessable value of the property is usually minimal or zero. If the value of the mutual water company property is assessed with the land that it serves, then a separate assessment of the mutual water company assets may cause a duplicate assessment.

Having the articles of incorporation on file will help ensure proper assessment of each mutual water company.

### ***Pipeline Rights-of-Way***

Intercounty pipeline rights-of-way were assessed by the Board from approximately 1982 until 1993, when an appellate court ruled that such assessments were outside the Board's constitutional authority.<sup>11</sup> The court ruled that while the pipelines themselves are properly assessed by the Board, the rights-of-way through which the pipelines run must be locally assessed. Subsequent to this court ruling, the Legislature added sections 401.8 through 401.13, which govern the valuation of intercounty pipeline lands and rights-of-way.

The Santa Clara County Assessor has assigned a supervising appraiser to monitor and assess the pipeline rights-of-way, which are held by four companies in Santa Clara County. The total assessed value of these rights-of-way is \$10,186,285. Each right-of-way is assigned a single countywide assessor's parcel number that reflects the total value of the rights-of-way owned.

When valuing the pipeline rights-of-way prior to the court decision, the Board developed density classifications for appraisal purposes, and assessors have generally adopted this methodology. Should an assessor use different classifications or associated values, the assessor loses the benefit of a statutory presumption of correctness. The Santa Clara County Assessor uses the three Board classifications: high density, transitional density, and low density. High density is valued at \$20,000 per mile; transitional density is valued at \$12,000 per mile; and low density is valued at \$9,000 per mile. There are no multiple pipelines in a single right-of-way.

Pipeline rights-of-way in Santa Clara County are being properly valued in accordance with sections 401.8 through 401.13.

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<sup>11</sup> *Southern Pacific Pipe Lines Inc. v. State Board of Equalization* (1993) 14 Cal.App.4<sup>th</sup> 42.

## ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

As of August 2006, the assessor's staff assigned to the Business Personal Property Division consisted of 79 positions: 1 chief auditor-appraiser, 1 assistant chief auditor-appraiser, 6 supervising auditor-appraisers, 26 senior auditor-appraisers, 16 auditor-appraisers, and 29 support staff.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business equipment, and discovering and assessing leased equipment, manufactured homes, aircraft, vessels, and animals.

### **Audits**

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

The following table shows statistics on audit production for recent years:

<b>ROLL YEAR</b>	<b>TOTAL AUDITS</b>	<b>MANDATORY AUDITS</b>	<b>ESCAPE ASSESSMENTS</b>	<b>REFUND ASSESSMENTS</b>	<b>NET CHANGE</b>
2005-06	969	941	\$3,170,828,193	\$468,380,150	\$2,702,448,043
2004-05	965	850	\$2,199,962,218	\$273,956,053	\$1,926,006,165
2003-04	1,057	947	\$3,606,717,122	\$358,047,461	\$3,248,669,661
2002-03	908	881	\$1,436,253,993	\$419,442,094	\$1,016,811,899
2001-02	1,000	821	\$3,023,722,292	\$414,228,578	\$2,609,493,714

## **Mandatory Audits**

As provided in section 469, audits are mandatory for taxpayers reporting business tangible personal property and trade fixtures valued at \$400,000 or more for four consecutive years.

The mandatory audit program is one of the assessor's main programs to verify the reporting on large business property accounts and to prevent potentially large reporting errors. We found no problems with the assessor's program for performing mandatory audits.

## **Statute of Limitations**

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed time, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

In instances where it appears that the assessor may not be able to complete the audit timely, a waiver of the statute of limitations is requested from the taxpayer. If the assessor is unable to obtain a signed waiver from the taxpayer, his policy is to readjust the workload to complete these audits within the prescribed time frame, so as not to let any property escape assessment.

## **Audit Quality**

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We reviewed a number of audits and found that the assessor uses standardized worksheets that are detailed and easy to follow. The assessor's audits are consistent, reasonable, and complete. They are well documented and supported by a comprehensive audit checklist defining the areas of investigation.

## ***Business Property Statement Processing***

Section 441 requires each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more to annually file a property statement with the assessor; other persons must file a property statement if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the property statement address a variety of property types, including commercial, industrial, and agricultural property, vessels, and certificated aircraft.

Under the guidance of the chief and assistant chief auditor-appraisers, senior auditor-appraisers and auditor-appraisers in the Business Personal Property Division process all business property statements with the assistance of support staff.

**Workload**

The following table displays the assessor's workload of secured and unsecured business property statements and their assessments for the 2006-07 roll:

<b>TYPE OF PROPERTY STATEMENTS</b>	<b>TOTAL</b>	<b>SECURED VALUE</b>	<b>UNSECURED VALUE</b>	<b>TOTAL ASSESSED VALUE</b>
Agriculture	136	\$17,189,194	\$6,730,763	\$23,919,957
Apartments	1,309	\$51,877,911	\$14,057,813	\$65,935,724
Financial	480	\$3,741,938	\$107,797,783	\$111,539,721
General Business (Active Accounts)	33,348	\$5,668,928,767	\$18,815,932,109	\$24,484,860,876
Leased Equipment	10,156	0	\$869,906,414	\$869,906,414
Aircraft	953	\$221,800	\$970,744,767	\$970,966,567
Boats	4,155	0	\$62,355,316	\$62,355,316
Insufficient to Assess	21,513			
Accounts closed	7,345			
Totals	79,395	\$5,741,959,610	\$20,847,524,965	\$26,589,484,575

**Discovery**

While taxpayer self-reporting is the principal means of discovering assessable business property in Santa Clara County, the assessor also uses field canvassing, reviews of fictitious business name filings, newspaper articles and advertisements, city and county business licenses, referrals from other counties, and Board notifications of sales tax permits to discover assessable business property. The assessor has an effective program for the discovery of taxable business and personal property, as well as fixtures.

**Direct Billing**

Many assessors utilize an assessment procedure called "direct billing" or "direct assessment." This is a method of assessing certain qualified smaller business accounts without requiring the annual filing of a business property statement. The assessor establishes an initial value and continues it for several years, with only periodic requests for property statements or field reviews.

The direct billing program is beneficial to both taxpayers and the assessor. Direct billing streamlines filing requirements, reduces the amount of paperwork for small businesses and the number of property statements that must be processed by the assessor. Examples of businesses suitable for direct billing include small apartments, barber shops, beauty parlors, coin-operated laundrettes, small cafes, restaurants, and professional firms with small equipment holdings.

The Santa Clara County Assessor's direct billing program is limited to vessels and aircraft originally assessed at less than \$100,000, and to apartments, 50 units or less, where the original reported assessable personal property was under \$2,000 per unit. The assessor has approximately 390 apartments and a number of vessels and general aircraft accounts in the direct billing program. Every four years, the assessor sends a business property statement to all direct billing accounts. We found that the direct billing program is properly administered.

### Filing Procedures

The assessor has accepted the electronic filing of business property statements through a web-based application for the last four years. For the 2006-07 assessment year, more than 7,000 e-filings were accepted by the assessor. Security is ensured with a randomly generated business identification number for each business location, as well as other security features.

## **Business Equipment Valuation**

### Commercial, Industrial, and Agricultural Equipment

Assessors value most machinery and equipment using business property value factors. Value factors are derived by combining price index factors (trend factors) with percent good factors. A value indicator is obtained by multiplying a property's historical (acquisition) cost by an appropriate value factor.

Section 401.5 provides that the Board shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the Board annually publishes Assessors' Handbook Section 581, *Equipment Index and Percent Good Factors* (AH 581).

Price index factors measure the trended value of goods over their service lives. The percent good factors are intended to reflect the average loss in value that commercial and industrial equipment will suffer over its service life. The factors are based on averages and represent a reasonable estimate of the annual changes for the majority of business machinery and equipment. Valuation factors are the product of price index factors and the percent good factors. The proper choice and application of valuation factors to historical costs produces reasonable estimates of market value.

The assessor's Business Personal Property Division properly uses the composite valuation factors provided by the Board in their valuation of non-production computers and related equipment.

In our 2003 assessment practices survey report, we made four recommendations to improve the assessor's business equipment valuation program. We recommended the assessor: (1) properly

assess biopharmaceutical industry equipment, (2) properly assess personal property in apartments, (3) use Assessors' Handbook Section 581 as intended, and (4) make estimated assessments based upon available information, as required by section 501.

The assessor is now assessing personal property in apartments based on the information provided on form BOE-576-R, *Apartment House Property Statement*, and is using Assessors' Handbook Section 581 as intended. Since the Board is currently reviewing the valuation of biopharmaceutical industry equipment, we will not repeat this recommendation. In addition, we did not find any inappropriate estimated assessments made by the assessor; accordingly, we will not repeat these recommendations. However, we did find one area that needs improvement.

**RECOMMENDATION 10:** Ensure that pollution control equipment financed by state bonds is assessed.

We found that the assessor is not assessing pollution control equipment financed by state bonds. We reviewed a number of businesses that had acquired pollution control equipment financed by state bonds and found nothing in the business property records or audit files to indicate an assessment of this equipment.

Division 27, chapter 1 of the Health and Safety Code (commencing with section 44500) authorizes the California Pollution Control Financing Agency (CPCFA) to either acquire or finance the acquisition of devices or facilities necessary to mitigate air and water pollution caused by private industrial operations. If the CPCFA acquires the device or facility and leases it to a private company, then section 201.5 provides that a possessory interest in this type of equipment or facility owned by the CPCFA, whether in real or personal property, is taxable.

However, most equipment acquisitions financed by CPCFA are lease-purchase agreements, under which title passes to the lessee for \$1 at the end of the bond term, or loans, with title to the equipment vested in the private company. Consequently, the private company should be regarded as the owner of the equipment and should be assessed for its full value.

To help identify such equipment or facilities, the Board annually issues a letter to all assessors, listing the pollution control financing bonds issued during the previous year, with project location by county, the name of the lessee, and the amount of each bond. In County Assessors Only (CAO) 2002/004, dated May 9, 2002, we informed the assessor that the CPCFA issued pollution control bonds in excess of \$81 million for the acquisition of pollution control equipment by six industrial business entities in Santa Clara and four other counties. In CAO 2003/014, dated September 14, 2003, we informed county assessors of pollution control bonds exceeding \$29 million for two different business entities in Santa Clara and San Francisco Counties. Moreover, in CAO 2004/014, issued November 24, 2004, we indicated pollution control bonds of more than \$53 million for yet another two entities in Santa Clara and 20 other counties. The assessor received these three advisory letters from the Board.

By failing to determine the assessability of pollution control equipment financed by state bonds, the assessor may be allowing property to escape assessment.

### **Leased Equipment**

The business personal property division is responsible for the discovery, valuation, and assessment of leased equipment. This type of property is one of the more difficult to assess correctly. Common problems include difficulty in establishing taxability and taxable situs, reporting errors by lessees and lessors, valuation (whether the value of the equipment should be the lessor's cost or the cost for the consumer to purchase), and double or escape assessments resulting from lessor and lessee reporting. These issues are discussed in detail in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*.

When property is leased, both lessors and lessees should report such property on their annual property statements. At the end of a lease, the lessee may acquire the equipment or return it to the lessor. Procedures should be in place to identify the disposition of leased equipment upon termination of a lease. An efficient way to track equipment in these situations is to cross-reference the business property statements of the lessor and the lessee.

When a lessee obtains ownership and retains possession of equipment at the end of the lease, the assessor should confirm that the lessee reports the property. A cross-check of information reported by lessors and lessees verifies the accuracy of the reported information.

In our 2003 survey report, we recommended the assessor ensure that all equipment is properly assessed upon termination of the lease. The assessor has not implemented this recommendation, and, therefore, it is repeated.

**RECOMMENDATION 11:** Ensure that leased equipment retained by the lessee upon lease termination continues to be assessed.

The assessor does not have any procedures to ensure the continued assessment of leased equipment retained by the lessee upon termination of the lease. We found instances where property purchased by the lessee at the end of the lease period was not subsequently assessed. Currently the determination of the proper assessee and assessability of leased equipment is made during the audit process. Of the five samples that we reviewed, four of the samples reflect that the leased equipment in question was verified and properly assessed during audit.

By failing to adequately track lease terminations that have been reported by the lessor as equipment purchased by the lessee, the assessor may allow taxable property to escape assessment.

### **Manufactured Homes**

A "manufactured home" is defined in Health and Safety Code sections 18007 and 18008, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

In Santa Clara County, manufactured homes can be found in 133 mobilehome parks or on private or public lands. The following table shows the number of manufactured homes assessed in Santa Clara County for recent years:

ROLL YEAR	MANUFACTURED HOMES	ASSESSED VALUE
2006-07	9,503	\$583,748,391
2005-06	9,443	\$529,604,509
2004-05	9,300	\$524,488,800
2003-04	9,127	\$516,317,716
2002-03	8,910	\$477,550,418

All manufactured homes are valued by a supervising auditor-appraiser with the assistance of an assessment clerk, an appraisal aide, and an account assistant.

Taxable manufactured homes are discovered through information received from the State Department of Housing and Community Development, dealers' reports of sales, inspections of mobilehome parks, and building permits issued by the cities and the county.

We reviewed a number of manufactured home assessments and found the assessor's assessment program for manufactured homes conforms to regulatory requirements.

**Aircraft**

There are three classes of aircraft that are subject to personal property tax: certificated or commercial aircraft, general aircraft, and historical aircraft.

The following table illustrates the growth in the assessed values of aircraft in Santa Clara County for recent years:

ROLL YEAR	AIRCRAFT	ASSESSED VALUE
2006-07	953	\$970,966,567
2005-06	947	\$882,223,617
2004-05	1,020	\$938,080,885
2003-04	957	\$777,354,351
2002-03	1,029	\$908,832,049

**General Aircraft**

General aircraft are privately owned aircraft that are used for pleasure or business but that are not authorized to carry passengers, mail, or freight on a commercial basis (the contrast between

general aircraft and certificated aircraft is discussed below). Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the Board. Section 5364 requires the Board to establish such standards. On January 10, 1997, the Board approved the *Aircraft Bluebook-Price Digest (Bluebook)* as the primary guide for valuing aircraft with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.

For the 2006-07 assessment roll, the assessor enrolled a total of 893 general aircraft with a total assessed value of \$591,299,960. As previously reported in the appraiser certification section of this report, certified staff reviews initial general aircraft appraisals conducted by non-certified staff. The valuation of helicopters and those general aircraft that are not in the direct billing program are the responsibility of the chief auditor-appraiser.

Each year, an aircraft property statement is mailed to the known owner of each aircraft in the county requesting updated information. The form lists the aircraft's Federal Aviation Administration registration number and requests the owner to report avionics, added equipment, engine air hours since last major overhaul, date of last overhaul, and transfer information if the aircraft has been sold since the last lien date.

### Certificated Aircraft

Certificated aircraft are aircraft operated by air carriers (including air taxis that are operated in scheduled air taxi operation). Unlike general aircraft, which are normally assessed at the place where they are "habitually located" on the lien date, the assessments of certificated aircraft are allocated among taxing jurisdictions based upon ground and flight time and the number of arrivals and departures during a representative period (the period is designated by the Board). Certificated aircraft are assessed in accordance with the methods described in section 401.17.

Following the requirements of section 401.17, in effect October 7, 2005, the assessor recalculated the full cash values of certificated aircraft that were enrolled as of the 2005 lien date. Based on the assessment methodology presented in section 401.17, the 2005 assessed values of 15 certificated aircraft were reduced by more than \$59,000,000.

### Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air-powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of \$35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale, (2) the assessee does not use the aircraft for commercial purposes or general transportation, and, (3) the aircraft

was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which exemption is claimed.

In Santa Clara County, the processing and granting of historical aircraft exemptions are handled jointly by the Exemption and the Business Personal Property Divisions. We found two areas that need improvement in the assessor's administration of this exemption.

**RECOMMENDATION 12:** Improve the historical aircraft exemption program by:  
(1) using the current claim form, and (2) date stamping the claim form upon receipt.

**Use the current claim form.**

For the 2006-07 assessment roll, the assessor granted the historical aircraft exemption to several owners of aircraft of historical significance who filed claims for the exemption using older versions of form BOE-260-B, *Claim for Exemption from Property Taxes of Aircraft of Historical Significance*.

Subdivision (d) of Government Code section 15606 requires the Board to prescribe and enforce the use of all forms for the assessment of property. Board-prescribed forms are updated on an annual basis to reflect current legislation and other revisions; a checklist of current forms is sent to assessors. Outdated Board-prescribed forms should not be used, as they could provide incorrect information or be misleading to the taxpayer.

**Date stamp the claim form upon receipt.**

We found several claim forms that were not stamped with the date of receipt.

Section 276.5 provides that if a person claiming the exemption of an aircraft of historical significance under section 220.5 fails to file the affidavit required by that section by February 15 of the fiscal year for which the exemption is claimed, but files that affidavit on or before the following August 1, the assessment shall be reduced by an amount equal to 80 percent of the reduction that would have been allowed had the affidavit been timely filed.

Unless properly stamped with the date of receipt, the assessor is unable to confirm whether the claim was received timely for the 100 percent exemption or, instead, late filed, in which case the claimant should only receive 80 percent of the exemption.

**Vessels**

Assessors must annually appraise all vessels at market value. The primary sources used for the discovery of assessable vessels include State Department of Motor Vehicles (DMV) reports, referrals from other counties, and information provided by the vessel owners themselves.

The following table shows the vessels assessed in Santa Clara County for recent years:

ROLL YEAR	PLEASURE VESSELS	ASSESSED VALUE	DOCUMENTED VESSELS	ASSESSED VALUE
2006-07	4,152	\$62,355,316	3	\$1,273
2005-06	4,157	\$61,273,696	3	\$1,370
2004-05	4,382	\$62,698,929	3	\$1,420
2003-04	4,660	\$66,644,275	3	\$1,518
2002-03	4,720	\$64,370,132	3	\$2,545

The assessor discovers assessable vessels through property statements, certificates of documentation issued by the United States Coast Guard, referrals from other counties, and DMV reports. The assessor uses form BOE-576-D, *Vessel Property Statement*, to obtain vessel information from vessel owners. When appropriate, the assessor applies the section 463 penalties for late filing or non-filing of form BOE-576-D.

As previously reported in the appraiser certification section of this report, non-certified support staff are responsible for processing form BOE-576-D, and for valuing vessels. Vessels are initially appraised with the aid of the *BUC New and Used Boat Price Guide, N.A.D.A. Marine Appraisal Guide, Kelley Blue Book*, or information from different boat websites. Sales tax is correctly added to the value of the vessels. Adjustments for vessel condition and for added equipment are made if appropriate.

**Animals**

The California Constitution mandates that all property is taxable unless specifically exempted by the Constitution, the laws of the United States, or, in the case of personal property, by act of the Legislature. Most animals are exempt from taxation. Pets are exempted under section 224. Many animals that are considered business inventory are exempted by sections 129 and 219, and by Rule 133.

Taxable animals include those that are held or used in connection with the owner's business, trade, or profession; those used to produce offspring for sale at a net profit; and those with proficiency that have gained substantial monetary or other awards. Animals that are taxable are those used as rodeo stock, show horses, security dogs, riding stable or pack animals remaining under the owner's direct control, and animals held for breeding purposes.

In our 2003 survey, we recommended the assessor assess all taxable animals. We found that the assessor has implemented this recommendation. We were provided a listing of all of the account holders that file form BOE 571-F, *Agricultural Property Statement*. As a cross check, we selected from the local telephone book five businesses involving animals. Of the five businesses, we found three active businesses involving taxable animals, of which one currently had no taxable animals and two had taxable animal accounts in Santa Clara County assessed by

the assessor at reported cost. The remaining two businesses were located outside of Santa Clara County.

The assessor has an effective program for the discovery and assessment of taxable animals.

## APPENDIXES

### A. County-Assessed Properties Division Survey Group

#### Santa Clara County

*Chief*

Dean Kinnee

*Survey Program Director:*

Arnold Fong

Principal Property Appraiser

*Survey Team Supervisor:*

Sally Boeck

Supervising Property Appraiser

*Survey Team Leader:*

Ronald Louie

Senior Specialist Property Appraiser

*Survey Team:*

Glenn Danley

Senior Specialist Property Appraiser

Zella Cunningham

Associate Property Appraiser

Bob Curry

Associate Property Appraiser

Bob Marr

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Bob Rossi

Associate Property Appraiser

Lloyd Allred

Associate Property Auditor-Appraiser

Dave Barbeiro

Associate Property Auditor-Appraiser

Manny Garcia

Associate Property Auditor-Appraiser

Zbigniew Radko

Associate Property Auditor-Appraiser

Kristina Valdez

Tax Technician II

Ella Chin

Tax Technician I

## **B. Assessment Sampling Program**

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing<sup>12</sup> activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at one percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The Board, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the Board's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The Board's County-Assessed Properties Division (CAPD) conducts the assessment sampling program on a five-year cycle for the 11 largest counties and cities and counties and on either a random or as needed basis for the other 47 counties. This sampling program is described as follows:

A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.

These assessments are stratified into 18 value strata (nine secured and nine unsecured.)<sup>13</sup>

From each stratum a random sampling is drawn for field investigation, sufficient in size to reflect the assessment level within the county.

For purposes of analysis, after the sample is drawn, the items are identified and placed into one of the five categories listed below:

**Base year properties.** Those properties the county assessor has not reappraised for either an ownership change or new construction during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

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<sup>12</sup> The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

<sup>13</sup> The nine value strata are \$1 to \$99,999; \$100,000 to \$199,999; \$200,000 to \$499,999; \$500,000 to \$999,999; \$1,000,000 to \$1,999,999; \$2,000,000 to \$19,999,999; \$20,000,000 to \$99,999,999; \$100,000,000 to \$249,999,999; and \$250,000,000 and over.

**Transferred properties.** Those properties last reappraised because of an ownership change that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**New construction.** Those properties last reappraised to reflect new construction that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**Non-Proposition 13 properties.** Those properties not subject to the value restrictions of article XIII A, or those properties that have a unique treatment. Such properties include mineral-producing property, open-space property, Timberland Production Zone property, and taxable government-owned property.

**Unsecured properties.** Those properties on the unsecured roll.

From the assessment universe in each of these 18 value strata (nine strata on both secured and unsecured local rolls), a simple random sampling is drawn for field investigation that is sufficient in size to reflect the assessment practices within the county. A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values. Because a separate sample is drawn from each stratum, the number of sample items from each category is not in the same proportion to the number of assessments in each category. This method of sample selection causes the raw sample, that is, the "unexpanded" sample, to over-represent some assessment types and underrepresent others. "Expanding" the sample data eliminates this apparent distortion in the raw sampling; that is, the sample data in each stratum are multiplied by the ratio of the number of assessments in the particular stratum to the number of sample items selected from the stratum. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.

The field investigation objectives are somewhat different in each category, for example:

**Base year properties** -- for those properties not reappraised during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? Was there a change in ownership? Was there new construction? Or, was there a decline in value?

**Transferred properties** -- for those properties where a change in ownership was the most recent assessment activity during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that a reappraisal was needed? Do we concur with the county assessor's new value? Was the base year value trended forward (for the allowed inflation adjustment)? Was there a subsequent ownership change? Was there subsequent new construction? was there a decline in value?

**New construction** -- for those properties where the most recent assessment activity was new construction added during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that the construction caused a reappraisal? Do we concur with the value enrolled? Was the base year amount trended forward properly (for the allowed inflation adjustment)? Was there subsequent new construction? Or, was there a decline in value?

**Non-Prop 13 properties** -- for properties not covered by the value restrictions of article XIII A, or those properties that have a unique treatment, do we concur with the amount enrolled?

**Unsecured properties** -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?

The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.

The results of the sample are then expanded as described above. The expanded results are summarized according to the five assessment categories and by property type and are incorporated into the published assessment practices survey report.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the County-Assessed Properties Division. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.

### **C. Relevant Statutes and Regulations**

#### **Government Code**

##### **15640. Survey by board of county assessment procedures.**

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

##### **15641. Audit of records; appraisal data not public.**

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

**15642. Research by board employees.**

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

**15643. When surveys to be made.**

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the 10 largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The 10 largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
- (d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

**15644. Recommendations by board.**

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

**15645. Survey report; final survey report; assessor's report.**

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

**15646. Copies of final survey reports to be filed with local officials.**

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

**Revenue and Taxation Code**

**75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
  - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
  - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).
- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

**Title 18, California Code of Regulations**

**Rule 370. Random selection of counties for representative sampling.**

(a) **SURVEY CYCLE.** The board shall select at random at least three counties from among all except the 10 largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.

(b) **RANDOM SELECTION FOR ASSESSMENT SAMPLING.** The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

**Rule 371. Significant assessment problems.**

(a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment

operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.
- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.
- (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
- (8) Discovering and assessing property that has suffered a decline in value.
- (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

(c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

## **ASSESSOR'S RESPONSE TO BOARD'S FINDINGS**

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendation in the survey report. The survey report, the assessor's response, and the Board's comments on the assessor's response, if any, constitute the final survey report.

The Santa Clara County Assessor's response begins on the next page. The Board has no comments on the response.

# County of Santa Clara

Office of the County Assessor

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**RECEIVED**

**JUL 07 2008**

**DEPUTY DIRECTOR  
PROPERTY AND SPECIAL TAXES**



Lawrence E. Stone, Assessor

July 1, 2008

David J. Gau, Deputy Director  
Property and Special Taxes Department  
Property Taxes MIC: 63  
State Board of Equalization  
450 N Street  
Sacramento, California 95814

Dear Mr. Gau,

Thank you for this opportunity to respond to the recommendations contained in the State Board of Equalization's (SBE) Assessment Practices Survey of the Assessor's Office, pursuant to Section 15645 of the California Government Code. The independent SBE audit provides a critical, professional examination of the appraisal practices and assessment procedures in the Santa Clara County Assessor's Office.

As the independently elected Assessor for Santa Clara County, the California State Constitution holds me directly responsible for the accurate, timely and efficient production of the annual assessment roll. Similarly, the State Board of Equalization (SBE) performs a vital "oversight" role which is met, in part, by the comprehensive Assessment Practices Survey. The SBE's oversight responsibility is designed to protect the integrity of the property tax system; encourage statewide uniformity in practices and maintain the confidence of both those who pay the taxes and those government agencies who benefit directly from the property tax revenue.

Effective administration of the assessment function is of critical importance to local government. In Santa Clara County the property tax system generates in excess of \$3 billion for schools, cities, the county, redevelopment agencies, community colleges and special districts. Moreover, the SBE has a unique authority to levy significant financial sanctions if an assessor fails to meet an established compliance standard. This statutory requirement sets a 95 percent compliance ratio as the threshold to continue to collect the administrative costs of supplemental assessments. This reimbursement to Santa Clara County totaled \$7.2 million for fiscal year 2006-07. The fact that your survey team concluded that our office not only met the 95 percent compliance ratio, but achieved a

total ratio of 99.81% is a tribute to the dedication and professional competence of my entire staff.

I was also extremely pleased with the limited number recommendations for improvement, 12 in all. This is a small number of suggestions for a large county and substantially fewer than the last SBE survey when there were 29 recommendations. In large part, it is an acknowledgment of the numerous changes aided by technology enhancements in our operation since your last Assessment Practices Survey published in 2003.

I sincerely appreciate the constructive analysis of our operations and recommendations for improvement. You will note that we have already addressed and resolved most of the recommendations cited in the report. In all but four recommendations, we have agreed with your analysis. Our disagreement in those instances is primarily because we must continue to evaluate our financial and staff resources to ensure that they are utilized in the most efficient and productive manner possible.

In response to the 2003 Assessment Practices Survey, I indicated that we must improve the way we prioritize our responsibilities and direct declining resources, human and financial, where they will generate the highest beneficial return on our public investment. I was elected with a mandate to streamline public operations, in addition to the design and implementation of a performance-based management system that ensures the prudent allocation of public resources to prevent the "expenditure of a dollar to collect a dime."

Going forward, our ability to not only implement the SBE recommendations, but continue to provide the highest level of public service and timely enrollment of accurate assessments, will be sorely challenged. Since the 2006-07 assessment roll, our office has been forced to delete 39 positions, for a total reduction in staff of nearly 15 percent. It is truly remarkable that between 1994 and 2008 staffing levels in my office declined by 2 percent, while other related departments actually grew between 12 percent and 58 percent. At the same time, the assessment roll has grown nearly 170 percent. (Alternately you could say it has nearly tripled.)

Staff cuts due to the County's ongoing fiscal crisis and the continued loss of State funding, will negatively impact our ability to perform mandated services. We are projecting increased backlogs in defending assessment appeals, completing mandatory and non-mandatory audits, processing assessment roll changes, and assessing real property transfers and new construction.

Finally, I wish to express my appreciation to the survey team for the professional manner in which the survey was conducted, with a minimum of disruption to our operations. Their cooperative attitude and constructive comments throughout the process are acknowledged by all members of my management team.

David J. Gau  
June 27, 2008  
Page 3

I also want to acknowledge and thank the employees of the Assessor's Office for their dedication and commitment to excellence. Throughout the survey your comments about our organization, that we are "well run...effective...efficient and productive" is a direct testament to the professionalism and performance of the employees.

Sincerely,



Lawrence E. Stone  
Assessor

LES:dy

SANTA CLARA COUNTY ASSESSOR'S OFFICE  
RECOMMENDATIONS AND RESPONSES  
TO  
BOARD OF EQUALIZATION ASSESSMENT PRACTICES SURVEY AND AUDIT  
JUNE 27, 2008

RECOMMENDATION 1: Use certified appraisers to value vessels.

RESPONSE 1: We disagree with the BOE's assertion that vessels were not valued by certified staff. However, we have implemented procedures to insure additional documentation of the valuation process.

RECOMMENDATION 2: Include the assessment appeals information required by section 170(c) on the disaster relief reassessment notice.

RESPONSE 2: We agree with this recommendation and have made the correction.

RECOMMENDATION 3: Properly apply the low-value property exemption.

RESPONSE 3: We agree with this recommendation. It is the Assessor's policy to direct limited energy and resources toward those assessment activities which present the highest potential of beneficial return for the cost expended. In order to maximize our performance and productivity, we first apply our resources to the most significant assessments. Consequently, lower value assessments are given a lower priority. This recommendation will be implemented as time and resources become available.

RECOMMENDATION 4: Issue supplemental assessments for taxable possessory interests.

RESPONSE 4: We agree with this recommendation. It is the Assessor's policy to direct limited energy and resources toward those assessment activities which present the highest potential of beneficial return for the cost expended. In order to maximize our performance and productivity, we first apply our resources to the most significant assessments. Consequently, lower value assessments are given a lower priority. This recommendation will be implemented as time and resources become available.

RECOMMENDATION 5: Revise the CLCA program by: (1) classifying grapevines as improvements, (2) deducting a charge for return of the well value from income attributable to the property, (3) using an appropriate income stream to value vineyards and orchards, and (4) limiting the exemption period for vineyards to three years after the season of planting.

RESPONSE 5

- (1) We agree with item one and have begun implementation of prospective changes.
- (2) We agree with item two and will implement changes when additional resources are available.
- (3) We agree with item three and will implement a procedure to apply the appropriate income premise to CLCA orchards and vineyards as data and resources become available.
- (4) We agree with item four and have begun implementation.

RECOMMENDATION 6:

Improve the assessment program for taxable government owned properties by: (1) documenting enrolled values, and (2) correcting valuation errors.

RESPONSE 6:

- (1) We agree with item one and have implemented corrections.
- (2) We agree with item two and have implemented corrections.

RECOMMENDATION 7:

Improve the taxable possessory interest program by: (1) correctly calculating the base year value, and (2) annually determining the market value of a taxable possessory interest based on the stated term of possession as required by Rule 21.

RESPONSE 7:

- (1) We agree with item one and have made corrections.
- (2) We agree with item two, however, in certain cases, such as those that prompted this recommendation, the use of a declining term without consideration of the anticipated term of possession, understates the value of the possessory interest enjoyed by the possessors.

RECOMMENDATION 8:

Assess enforceably restricted historical properties in accordance with section 439.2.

RESPONSE 8:

We agree with this recommendation and have commenced changes that will be fully implemented when additional resources are available.

RECOMMENDATION 9:

Obtain articles of incorporation for all mutual water companies.

RESPONSE 9:

We agree with this recommendation and will continue to request this information.

RECOMMENDATION 10:

Ensure that pollution control equipment financed by state bonds is assessed.

RESPONSE 10: We agree and have implemented procedures to identify and assess such equipment during the audit process.

RECOMMENDATION 11: Ensure that leased equipment retained by the lessee upon lease termination continues to be assessed.

RESPONSE 11: We disagree. Currently we verify, through the audit process, that leased equipment continues to be assessed upon lease termination.

RECOMMENDATION 12: Improve the historical aircraft exemption program by: (1) using the current claim form, and (2) date stamping the claim form upon receipt.

RESPONSE 12: We agree. This recommendation has been implemented.