



STATE BOARD OF EQUALIZATION

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July 18, 2008

**TO: STATE ASSESSEES AND
OTHER INTERESTED PARTIES**

**Re: 2008 Guidelines for Review and Consideration of Unsolicited, Untimely Materials in
State-Assessed Property Appeals**

This letter sets forth guidelines and procedures adopted by the Board at the meeting held on May 29, 2008, for the review, distribution, and consideration of unsolicited briefs and evidence submitted by petitioners in state-assessed property appeals after the deadlines specified in the Rules for Tax Appeals (RTA) have expired. Under these guidelines, petitioners are expected to comply with the deadlines specified, but copies of any unsolicited, late evidence will still be provided to the Appeals Division, the State-Assessed Properties Division (SAPD), the Tax and Fee Programs Division (T&FPD), and the Board Members so that it may be considered by the Board Members at their discretion.

Procedures Under the RTA

Briefing Process

A petition is considered the opening brief in a state-assessed property appeal. The SAPD reviews the petition, prepares a written analysis in response to the arguments made in the petition, and submits it to the Board Proceedings Division (BPD) for distribution to the petitioner, the Appeals Division, and the Board Members. (RTA 5326 and 5327.6.) The petitioner may respond to the SAPD's analysis by filing a reply brief no later than 15 days after the date the BPD distributes the analysis. Generally, a petitioner may not submit new or additional evidence with the reply brief, unless the evidence was requested by the SAPD or the Appeals Division (RTA 5326.2 and 5326.6).

After the regular briefing schedule, the Appeals Division, an individual Board Member, or the Board may request additional briefing or evidence from the petitioner and the SAPD (RTA 5341). No other briefs will be accepted for filing or distributed to the Board Members. At the conclusion of the briefing process, the Appeals Division will prepare a Hearing Summary for a petition scheduled for an oral hearing or a Summary Decision for a petition scheduled on a nonappearance calendar.

RTA Requirements for the Timely Submission of Evidence

Petitioners must file all of their “supporting documents, including appraisal reports, financial studies, and any other materials relevant to determining the value of the petitioner’s property or reasons why the penalty should be abated,” at the time they file their petitions (RTA 5323.4) or at a later time, if an extension is granted by the Chief Counsel (RTA 5324.2). After a petition is filed, petitioners may meet with the SAPD and the T&FPD and exchange relevant information and evidence. (RTA 5325.) During the appeals process, the SAPD, T&FPD, and/or the Appeals Division may request additional evidence from petitioners in order to evaluate their petitions. (RTA 5324.6 and 5325.) In addition, “the Appeals Division may request additional information or analysis from the petitioner or the State-Assessed Properties Division to assist in resolving any issue to be decided by the Board,” during the pre-hearing review of a petition. (RTA 5325.6.) Additionally, any Board Member may, before or at the hearing, permit or request the submission of evidence that was not previously filed with the Board. (RTA 5324.6.) All of the evidence submitted pursuant to these provisions of the RTA will be reviewed and responded to by the SAPD and the T&FPD and summarized by the Appeals Division, and may be considered by the Board Members.

Guidelines for Processing Unsolicited, Untimely Evidence

If a petitioner submits evidence that has not been requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member after filing its petition and meeting with SAPD to exchange evidence and information, the BPD will in all cases send the petitioner an acknowledgement letter and provide copies of the evidence to the SAPD, the T&FPD, the Appeals Division, and the Board Members. The acknowledgement letter will notify the petitioner that the evidence is untimely and may not be considered by the Board. If a petitioner submits unsolicited, late evidence directly to the Appeals Division, the Appeals Division will forward it to the BPD so that it can be acknowledged and copies sent in accordance with the foregoing process.

Evidence submitted at least 7 business days prior to a Board meeting

If a petitioner submits evidence that has not been requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member, after filing its petition and meeting with SAPD to exchange evidence, but the evidence is submitted *at least seven business days* before scheduled Board action on the petition:

1. The SAPD will review the evidence and submit a response to the Appeals Division. The SAPD’s response may include comments on the relevancy of the evidence and an objection that the evidence is untimely and should not be considered by the Board (RTA 5523.6).

2. The Appeals Division will review and summarize the evidence and the SAPD's response in a revised Hearing Summary or revised Summary Decision. The revised Hearing Summary or revised Summary Decision will also note that the evidence is late and will include any comments by the Appeals Division about its relevance. The SAPD's response will be attached as an exhibit to the revised Hearing Summary or revised Summary Decision.
3. No less than 3 days before the date of the Board meeting, the Appeals Division's revised Hearing Summary or revised Summary Decision will be distributed to the petitioner, the SAPD, the T&FPD, and the Board Members.
4. The Board Members may choose to give the evidence little or no weight based upon its relevancy or reject the evidence in its entirety because it was late (RTA 5324.6 and 5523.6).

Evidence submitted less than 7 business days before Board meeting

If a petitioner submits additional evidence of value that was not requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member *less than seven business days* prior to the scheduled Board action on the petition:

1. The SAPD and the T&FPD may review the evidence, if time permits, but will not be expected to provide a response to the petitioner, the Appeals Division, or the Board Members prior to the scheduled Board action on the petition. At the hearing, the SAPD may object to the Board's consideration of the evidence because it is late and recommend that the Board Members give the evidence little or no weight or reject it in its entirety because it was not thoroughly reviewed by SAPD and/or T&FPD (RTA 5324.6 and 5523.6).
2. The Appeals Division may review the evidence, if time permits, but will not prepare a revised Hearing Summary or revised Summary Decision to summarize the evidence. If requested by a Board Member prior to or at the petitioner's hearing, the Appeals Division will comment on the relevancy of the unsolicited, late evidence and may concur with the SAPD's objection to the Board's consideration of the evidence.
3. The Board Members may choose to give the evidence little or no weight based upon its relevancy or because the evidence was not thoroughly reviewed by the SAPD, the T&FPD, and the Appeals Division, or may reject the evidence in its entirety because it was late (RTA 5324.6 and 5523.6).

If you have any questions, please contact Tax Counsel IV Louis Ambrose at (916) 445-5580.

Sincerely,

/s/ Diane Olson

Diane Olson, Chief
Board Proceedings Division