

Management Audit of the County of Santa Clara Assessment Appeals Process

**Prepared for the
Board of
Supervisors of
the County of
Santa Clara by
the
Management
Audit Division**

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July 15, 2015

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July 15, 2015

Supervisor Joe Simitian, Chair
Supervisor Cindy Chavez, Vice Chair
Board of Supervisors Finance and Government Operations Committee
70 West Hedding Street
San Jose, CA 95110

Dear Supervisors Simitian and Chavez:

We have completed a management audit of the County of Santa Clara Assessment Appeals Process. This audit was authorized by the Board of Supervisors of the County of Santa Clara and was conducted pursuant to its power of inquiry specified in Article III, Section 302 (c) of the County Charter. The audit was conducted in conformity with the United States Government Accountability Office (GAO) Audit Standards.

The scope of this comprehensive management audit included a review and evaluation of all aspects of the assessment appeals process to identify opportunities to improve the economy, efficiency and effectiveness of the function. This audit report includes six findings and 19 recommendations related to assessment appeals management, as well as hearing policies and procedures. These recommendations are primarily directed to the three County departments engaged in the assessment appeals process: the Office of the Assessor, the Clerk of the Board and the Office of the County Counsel.

Implementation of the recommendations in the report would result in operational efficiencies. If approved by the Board and implemented by the respective departments, these recommendations would:

Board of Supervisors:
Mike Wasserman
District 1

Cindy Chavez
District 2

Dave Cortese
District 3

Ken Yeager
District 4

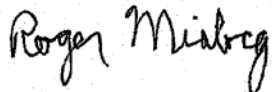
S. Joseph Simitian
District 5

County Executive: Jeffrey V. Smith

- Avoid the appearance of potential conflicts of interest during the hearing process;
- Improve customer service and communication, strengthen the quality, objectivity and transparency of assessment appeals;
- Ensure full compliance with the California Constitution and the County's Local Rules; and,
- Provide greater clarity regarding assessment appeals practices to ensure fair and equal treatment for all appellants.

We would like to thank all of the staff and management of the Office of the Assessor, the Clerk of the Board and the Office of the County Counsel for their assistance throughout the audit process. Their cooperation is greatly appreciated.

Respectfully Submitted,



Roger Mialocq
Board of Supervisors Management Audit Manager

cc:

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Supervisor Wasserman
Supervisor Yeager

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**S. Joseph Simitian
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County Executive: Jeffrey V. Smith

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Executive Summary

This *Management Audit of the Assessment Appeals Process* was added to the Management Audit Division's FY 2012-13 work plan by the Board of Supervisors of the County of Santa Clara pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter.

1. Role of County Counsel

The Office of the County Counsel serves as the legal advisor for multiple County offices that participate in the assessment appeals process. The scope of County Counsel's role at Assessment Appeals Board hearings and during the stipulation review process has not been sufficiently delimited in the County's adopted Local Rules as well as other key statutes and departmental policies and procedures. Counsel regularly provides unsolicited input on procedural, administrative, and evidentiary matters which Counsel reports is intended to facilitate the hearings. However, this practice is inconsistent with current County policies and Local Rules. These actions can compromise the efficient conduct of distinct County functions as required or intended by State law, the County Ordinance Code, and the County's adopted Local Rules. By clarifying the duties and responsibilities of the Deputy County Counsels assigned to the Assessment Appeals Boards and the Assessor, and formalizing related written policies and procedures and the Local Rules in the County Ordinance Code, County Counsel could avoid the appearance of potential conflicts of interest, increase efficiencies, improve customer service and communications, and reduce costs.

2. Office of the Assessor – Assessment Appeals Oversight, Goals and Performance Management

From FY 2009-10 through 2013-14, the County of Santa Clara received nearly 43,000 assessment appeals applications, with a significant spike in FY 2009-10 as a result of the recession. That spike created a backlog of appeals. In response, the County increased staffing and expanded the number of appeals resolution Boards and officers. However, available training opportunities for these new appraiser staff are insufficient. Further, supervisory oversight of assessment appeals appraisals is not sufficient, resulting in errors in appraisals forwarded to hearing boards. Lastly, appeals processing performance is not measured against individual or office-wide goals to determine if actual results achieved, missed or exceeded objectives. Consequently, the ability to identify opportunities for improvement and initiate focused assessment appeals training is reduced. By enhancing assessment appeals training opportunities, increasing supervisory review of stipulation agreements, and developing performance measures related to assessment appeals appraisal quality and productivity, the quality of assessment appeal appraisals could be improved.

3. Board Hearing Agendas

The County of Santa Clara has three assessment appeals boards authorized to hold value hearings. According to the County's adopted Local Rules, scheduling assessment appeals hearings is a Clerk function. In practice, however, the Office of the Assessor and individual appraisers have significant influence over when an appeal will be heard, and by which board, through the development of proposed hearing agendas that are generally accepted by the Clerk's office. This practice has contributed to significant differences in the number, type, and value of appeals heard by the County's different Assessment Appeals Boards. The lack of adequate controls on the agenda-setting process, including any formal tracking of the distribution of appeals, raises concerns about the appearance of potential conflicts of interest. Additionally, not having a balanced distribution of appeal types and values amongst Appeals Boards is an inefficient use of available County resources and expertise. Finally, current County practice does not follow the spirit of the statute mandating the setting of hearing agendas as a Clerk function. Amending current administrative procedures to require the Clerk of the Board to establish assessment appeals board agendas based on receiving a "notice of readiness" from the Office of the Assessor for each appeal would place the Clerk of the Board in full compliance with the California Constitution and the County's Local Rules governing the appeals process, equalize workload among the three boards, and strengthen the objectivity and transparency of the appeals process.

4. Public Information and Hearing Notices

As part of its public information mandate, the County's assessment appeals website provides information on the appeals process, including filing fees, important deadlines, and hearing options, as well as links to relevant County forms and an online application option. The County also sends "Notice[s] of Hearing" to appellants, as required by the County's adopted Local Rules for assessment appeals. However, publicly available information on the website is poorly organized, difficult to navigate, and contains little useful descriptive information. In addition, when compared to practices observed among large counties in California, the County of Santa Clara does not provide sufficient opportunities for appellants to learn about the appeals process. Appellant hearing notices also lack clarity regarding certain hearing appearance requirements, and do not provide information regarding who to contact with questions. Auditors observed many instances of unprepared appellants who did not fully grasp the assessment appeals or hearing processes. We also observed several instances where appellants did not have the requisite presentation materials as specified in their hearing notices, or where appellants expressed concern over miscommunication with County staff, contributing to confusion and delays. The Clerk should reorganize the assessment appeals website content and links thematically to make them more user-friendly. The Clerk should also update hearing notices to include public contact information (excluding specific employee names) as well as information regarding materials appellants must bring to hearings. Finally, the County should evaluate creating public information workshops, modeled on programs in the counties of Los Angeles and Orange.

5. Language Access and Limited English Proficient (LEP) Appellants

There are approximately 332,000 residents over the age of 18 in the County of Santa Clara who are classified as Limited English Proficient (LEP). Although there was no mandate that the County provide language access services for assessment appeals during the course of this audit, the County did approve “Language Access Guidelines and Procedures” on March 24, 2015. During observations of assessment appeals hearings, auditors witnessed several proceedings that were hampered by language barriers. In addition, the County’s assessment appeals website does not clearly direct LEP appellants to translated materials available from the State Board of Equalization. Also, although both the Office of the Assessor and the Clerk of the Board had generally recommended practices for assisting LEP appellants, both offices lacked documented procedures. Additionally, the assistance was limited in scope, not clarified on public County documents, and less than what was provided in peer counties. Finally, there is no mechanism for County staff to track LEP interactions or applications, to determine the need for services. At hearings, limited English proficient residents often appeared confused about the nature and purpose of the hearing and did not appear to understand standards for evidence or the hearing officers’ authority and jurisdiction, wasting County and appellant time and resources. It is unclear whether recommended practices are being administered consistently, and there are concerns over whether taxpayers have equal access to services and equal opportunity to participate in the assessment appeals process. The Clerk should update the County’s website and assessment appeal applications to clarify language access policies, and clearly state where additional resources are available. The assessment appeal application should be updated to include a field that will track whether or not appellants are LEP, so additional data can be gathered for future evaluation.

6. Hearing Policies and Practices

The Office of the Assessor, the Clerk of the Board and the Office of the County Counsel provide primary staffing for the processing of assessment appeals which centers on value hearings, whether conducted by appeals boards or hearing officers. The statutes governing hearings include sections of the County’s adopted Local Rules and ordinances, and the State Constitution and Revenue and Taxation Code. However, the Local Rules and internal policy guidelines do not reflect current practices. As a result, hearing practices are inefficient. Written policies are out-of-date, which may provide insufficient guidance to new staff and risks the loss of institutional knowledge when experienced employees leave. The mismatch between policies and practices can also create confusion for appellants. The Office of the Assessor and the Clerk of the Board should update all existing policies and procedures regarding the assessment appeals process. Specific clarification must be made regarding hearing confirmation and postponement requests; practices for continuances; and policy guidelines for special hearings. County Counsel should also update the County’s Local Rules for greater clarity on reinstatement requests, pre-hearing conferences, and the appearance-not-timely confirmed status.

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Introduction

The assessment appeals process was last audited in February 1992 at the request of the Clerk of the Board. Since that audit, the assessment appeals workload significantly fluctuated in response to changes in the real estate market, the Great Recession, and the local economy. The County departments responsible for processing assessment appeals have implemented substantial operational changes since 1992. The Board of Supervisors assigned this audit as a part of the Management Audit Division FY 2012-13 work plan pursuant to its power of inquiry specified in Article III, Section 302(c) of the Charter of the County of Santa Clara. However, the audit was deferred to accommodate the ongoing implementation of a new computer software processing system in the Assessor's Office.

Purpose and Scope

The scope of this comprehensive management audit includes a review and evaluation of all aspects of the assessment appeals process to identify opportunities to improve the economy, efficiency and effectiveness of the function.

Audit Methodology

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards issued by the United States Government Accountability Office. In accordance with these requirements, we performed the following management audit procedures:

Audit Planning—The Board of Supervisors selected this audit topic using a risk assessment tool and estimate of audit work hours developed at the Board's direction by the Management Audit Division. After audit selection by the Board, a detailed management audit work plan was developed and provided to the Assessor's Office, the Clerk of the Board's Office and County Counsel.

Entrance Conferences—Entrance conferences were held on September 3, 2014 with department managers in both the Assessor's Office and the Clerk of the Board's Office to introduce the management audit team, describe the management audit program and scope of review, and respond to questions. A letter of introduction from the Board, a management audit work plan, and a request for background information were also provided at the entrance conferences.

Pre-Audit Survey—A preliminary review of documentation and interviews with managers from the Assessor’s Office and the Clerk of the Board’s Office were conducted to obtain an overview understanding of the assessment appeals process, and to isolate areas of operations that warranted more detailed assessments. Based on the pre-audit survey, the work plan for the management audit was refined.

Field Work—Field work activities were conducted after completion of the pre-audit survey, and included: (a) interviews with management and staff of the Assessor’s Office, the Clerk of the Board’s Office and County Counsel, including observations of staff on the job; (b) observations of Assessment Appeals Board hearings; (c) a further review of documentation and other materials provided by the departments and available from other sources, including academic research; (d) analyses of data collected manually and electronically from systems maintained by the departments or elsewhere in the County, (e) surveys of other jurisdictions to measure performance and to determine organizational and operational alternatives that might warrant consideration by the County of Santa Clara, (f) surveys of assessment appeals applicants, and (g) records review of a selected sample of assessment appeals from 2009-2013.

Draft Report—On April 8, 2015, a draft report, with findings and recommendations, was prepared and provided to management in the Office of the Assessor, the Clerk of the Board’s Office and County Counsel.

Exit Conferences—Exit conferences were held with the Assessor’s Office, the Clerk of the Board’s Office and County Counsel to collect additional information pertinent to our report and to make corrections and clarifications, as appropriate. Following the exit conferences, a revised draft with any corrections was provided to the departments for use in preparing a formal written response.

Final Report—The final report—incorporating suggestions, comments and information provided at the Exit Conferences—was submitted on May 29, 2015.

We conducted this performance audit in accordance with generally accepted government auditing standards set forth in the 2011 revision of the “Yellow Book” of the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Legal Regulations Governing Assessment Appeals

The assessment appeals function is primarily governed by sections of the California State Constitution, the California State Revenue and Tax Code, and the California Code of Regulations. The County of Santa Clara has also established local rules pertaining to assessment appeals in the County Ordinance Code. Specific governing documents include:

California State Constitution

Article XIII Section 16 of the California State Constitution defines the establishment of county boards of equalization and assessment appeals boards, and requires that boards of supervisors “insure uniformity in the processing and decision of equalization petitions.” The authority of the county board of supervisors to adopt local rules relating to noticing and other procedures required to facilitate the work of the county’s Assessment Appeals Boards has also been established in this section of the Constitution.

California State Revenue and Taxation Code

Further provisions regarding the conduct and procedures of Assessment Appeals boards are detailed in Sections 1603 through 1607 of the California State Revenue and Taxation Code. These regulations also include detail regarding the application filing period for assessment appeals, and importantly, the requirement that all appeals to be reviewed and resolved within two years of the date of application filing.

California State Government Code

Section 15606 of the State Government Code directs the State Board of Equalization to prescribe rules and regulations governing local boards of equalization in the performance of their duties.

California Code of Regulations

The California Code of Regulations has established regulations regarding the conduct of assessment appeals board hearings as set forth in Sections 301 to 326, often referred to as the Property Tax Rules.

County of Santa Clara Ordinance Code

These hearing regulations have been adopted by the County, in the County of Santa Clara Ordinance Code, Division A4, sections A4-13 through A4-39, setting forth local law pertinent to the Assessment Appeals Board.

Description of Assessment Appeals Process

In Santa Clara, three offices bear primary responsibility for assessment appeals operations: the Clerk of the Board (Clerk), the Assessor, and County Counsel.

Clerk of the Board

The Assessment Appeals Division in the Clerk of the Board's office receives and reviews all assessment appeals applications for validity and completeness. Employees in this unit contact applicants, typically via letter, for any necessary additional information, and enter all application information into the Assessor's Information Management System (AIMS), which includes the County's appeals database. Clerk employees scan all application materials and notify the Office of the Assessor (as described below) when an appeal application is ready for review by an appraiser.

The Clerk's Assessment Appeals Division also manages the hearing schedules, prepares hearing agendas, and serves as recording secretaries for the assessment appeals boards. In this capacity, Clerk of the Board staff attend meetings, take notes, and mark exhibits, and also summarize agenda items when requested and coordinate with the public.

Office of the Assessor

Primary responsibility for processing assessment appeals in the Office of the Assessor resides within the Standards, Services and Exemptions (Standards) Division. After receiving an electronic copy of an appeal application from the Clerk of the Board, the Appraisal Data Coordinator activates the appeal, and assigns it to the appropriate division: Real Property or Business. A Supervising Appraiser or Supervising Auditor Appraiser then assigns the appeal to an appraiser. The Standards Appraisal Data Coordinator maintains ongoing responsibility for tracking and facilitating resolution of appeals, while the appraiser works to resolve the difference of opinion of value. This typically results in: (a) withdrawal of the appeal by the applicant; (b) agreement on a new value as codified in a written stipulation; or (c) scheduling of a hearing.

The Standards Appeals Data Coordinator works with the Clerk of the Board to ensure that all active appeals are heard by an assessment appeals board or a value hearing officer within two years of the application filing date, unless a waiver has been signed.

Office of the County Counsel

The Office of the County Counsel plays two key functions in the assessment appeals process: one Deputy County Counsel provides legal counsel to the Assessor, and a second Deputy County Counsel provides legal advice and general counsel to the three Assessment Appeals Boards, two Value Hearing Officers, and two Legal Hearing Officers. The Deputy County Counsel representing the boards also reviews all written stipulations before they are sent forward for final board approval.

In accordance with the California Government Code, County Counsel assigns these duties to separate employees in order to prevent conflict of interest.

Assessment Appeals Boards

The County of Santa Clara has three Assessment Appeals Boards (AABs). Each board consists of three members appointed by the Board of Supervisors. The third board was added in late 2010 to help address the backlog of appeals created by the economic recession.

Value Hearing Officers

After the County had experienced a major upsurge in assessment appeals following the economic recession, based on a recommendation of the Office of the Assessor, the Board of Supervisors implemented a new program in order to address the growing backlog of appeals: the introduction of Value Hearing Officers. These two Value Hearing Officers were seen as an important tool to help expedite the resolution of assessment appeals. Assessment appeals applicants can now choose to have their case reviewed by one of the Value Hearing Officers or by a full assessment appeals board. Since 2009, a total of 3,690 appeals have been heard by Value Hearing Officers.

Exhibit 1
Total Number of Appeals Resolved by Value Hearing Officers

	VHO1	VHO2	Total
2009-10	8	8	16
2010-11	476	447	923
2011-12	393	354	747
2012-13	614	632	1,246
2013-14	392	366	758
Total	1,883	1,807	3,690

Source: Assessor's Office Data

The Assessment Appeals Value Hearing Officers conduct hearings on assessment protests on single family residences, cooperatives, condominium, or multiple-family dwellings of four units or less; or property valued at less than \$500,000.

Legal Hearing Officers

The Assessment Appeals Legal Hearing Officers conduct hearings on assessment protests in order to determine whether a change of ownership or new construction has occurred so as to cause a reassessment of the property for property tax purposes.

This function was not reviewed for this audit.

"Running Statute"

As defined in Section 1604 of the California Revenue and Taxation Code, the County must review and resolve assessment appeals within two years of the filing date. Failure to do so results in the automatic acceptance of the applicant's opinion of the value of the property. This is commonly referred to as "running statute," and with over \$16 billion in appealed assessed property values, this regulation presents a major risk to the County. However, since 2009 the County has only "run statute" on four appeals out of the nearly 43,000 appeals applications filed. The impact of these errors resulted in a total reduced assessed value of \$2,649,209, which translates to a loss of about \$26,492 of property tax revenue to the taxing entities in the County. To protect the County from running statute, the Office of the Assessor and the Clerk of the Board have instituted new procedures to monitor the timeline of appeals as they approach the two-year threshold. If the applications are still in process, the Clerk of the Board will require a waiver from applicants that releases the County from this regulatory obligation.

Profile of SCC Assessment Appeals

Since FY 2009-10, the County of Santa Clara received 42,666 appeals applications in the following three categories: Real Property Residential, Real Property Commercial, and Business. The volume of appeals filed by category for the fiscal years covered in this audit scope (FY 2009-10 through 2013-14) can be seen in the exhibit below.

Exhibit 2

Appeals Filed¹ by Type -FY 2009-10 to FY 2013-14

FY	Business		Real Property Commercial		Real Property Residential		Total
	Total	%	Total	%	Total	%	
2009-10	630	6%	3,387	30%	7,356	65%	11,373
2010-11	1,180	13%	3,890	42%	4,285	46%	9,355
2011-12	974	11%	3,671	42%	4,112	47%	8,757
2012-13	998	13%	3,118	41%	3,480	46%	7,596
2013-14	1,131	20%	2,484	44%	1,970	35%	5,585

Source: Assessor's Office Data

As noted throughout this report, the County faced an exponential increase in appeals volume in FY 2009-10, principally in residential appeals resulting from the housing value crash associated with the economic recession. To meet the workload pressures created by this increase, the Assessor's Office expanded its workforce, as shown below.

Exhibit 3

Assessor Appeals Workload and FTE Count

FY 2009-10 through FY 2013-14

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Total Workload	16,782	19,596	19,871	17,328	12,823
Total FTEs	243	243	241	256	256

Source: Assessor Annual and Cost Accounting Reports

With the increase in volume of appeals, the County faced a corresponding increase in

¹ This data does not include all of the applications filed and received by the Clerk of the Board. For example, certain invalid or untimely applications are not captured here. In FYs 2009-10 and 2010-11, the Clerk of the Board received and reviewed 12,646 and 10,042 applications, respectively.

the County's exposure to reduced property tax revenue resulting from successful appeals. For fiscal years 2009-10 through 2013-14, the total at-risk value of all appeals filed was \$135,870,998,882. The exhibit below details the distribution of this total across the three primary categories of appeals. As shown, the Real Property Commercial appeals accounted for the majority of the at-risk value.

Exhibit 4

At-Risk Value of Appeals Filed, FY 2009-10 to FY 2013-14

Appeal Type	2009-10	2010-11	2011-12	2012-13	2013-14
Business	\$6,877,688,992	\$7,620,675,404	\$6,442,834,809	\$7,417,358,177	\$10,574,758,895
RP Comm	\$18,911,148,207	\$19,121,871,404	\$17,327,492,849	\$18,286,677,383	\$16,838,311,829
RP Res	\$2,070,542,977	\$1,504,829,142	\$1,201,953,554	\$935,531,191	\$739,324,069

Source: Assessor's Office Data

The majority of appeals filed between FY 2009-10 and FY 2013-14 that have been closed were either withdrawn by the applicant or resolved through a written stipulation. The exhibit below shows appeals resolution by outcome for the fiscal years included in this audit.

Exhibit 5

Resolved Appeals by Outcome FY 2009-10 to FY 2013-14

Result/Board Action	2009-10		2010-11		2011-12		2012-13		2013-14	
	Number	%	Number	%	Number	%	Number	%	Number	%
Invalid/Untimely	1,273	10%	687	7%	768	8%	615	8%	507	15%
Withdrawn	3,044	24%	2,723	28%	3,502	38%	2,748	38%	1,437	43%
Denied/No Show	2,444	20%	1,534	16%	1,614	17%	1,584	22%	585	17%
Stipulation	5,533	44%	4,507	46%	3,007	32%	1,959	27%	644	19%
Board Hearing	179	1%	302	3%	365	4%	361	5%	196	6%
Total	12,473		9,753		9,256		7,267		3,369	

Source: Assessor's Office Data

Appeals that result in a reduced assessed property value can be resolved either at a board hearing or through a stipulation. The total value of the reduced assessment appeals that have been resolved between FY 2009-10 and FY 2013-14 is \$15,178,667,808.

The exhibit below details the total reduced and retained values by year of resolution and appeal type.

Exhibit 6

Total Reduced and Retained Values of Appeals Resolved
FY 2009-10 to FY 2013-14

FY Resolved	Business		Real Property Commercial		Real Property Residential	
	Reduced	Retained	Reduced	Retained	Reduced	Retained
2009-10	\$1,058,717	\$6,876,630,275	\$113,932,717	\$18,797,215,490	\$101,038,571	\$1,969,504,406
2010-11	\$115,614,459	\$7,505,060,945	\$2,778,041,946	\$16,343,829,458	\$518,580,417	\$986,248,725
2011-12	\$379,750,790	\$6,063,084,019	\$3,727,521,168	\$13,599,971,681	\$667,099,415	\$534,854,139
2012-13	\$133,182,487	\$7,284,175,690	\$2,459,961,677	\$15,826,715,706	\$559,737,224	\$375,793,967
2013-14	\$582,019,752	\$9,992,739,143	\$1,818,982,365	\$15,019,329,464	\$448,489,519	\$290,834,550

Source: Assessor's Office Data

Survey of Other Jurisdictions

To understand how the County of Santa Clara's assessment appeals workload and processes compare relative to other counties, public appeals data were reviewed and a survey of the 10 largest counties, including Alameda, Contra Costa, Fresno, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego and San Francisco was conducted. A summary of major appeals activities (including the number of appeals filed, the number of appeals resolved, and the percentage resolved by specific action) for fiscal year 2012-13 can be seen in the exhibit below.

Exhibit 7

**Comparison of FY 2012-13 Assessment Appeals Activity
10 Most Populous California Counties and Santa Clara**

County	Total Filed	Total Resolved	Percentage Resolved Via Action					
			Withdrawn	Denied for Lack of Appearance	Invalid	Stipulated	Reduced	Sustain
Contra Costa	1,277	2,043	74%	14%	0%	4%	2%	6%
Fresno	1,334	1,887	59%	12%	0%	28%	0%	1%
Sacramento	4,407	5,197	89%	3%	2%	1%	1%	4%
San Francisco	5,685	5,992	43%	10%	5%	6%	33%	3%
San Bernardino	6,115	6,487	35%	12%	11%	38%	2%	2%
Alameda	6,928	7,624	32%	11%	4%	46%	6%	1%
Santa Clara	7,260	9,882	36%	17%	8%	35%	2%	2%
Riverside	9,049	12,275	43%	19%	8%	21%	6%	3%
San Diego	14,551	12,182	38%	10%	1%	50%	1%	0%
Orange	17,221	18,322	47%	12%	4%	19%	16%	2%
Los Angeles	38,610	35,500	41%	18%	6%	1%	34%	0%
<i>Average, excluding Santa Clara</i>	<i>10,518</i>	<i>10,751</i>	<i>50%</i>	<i>16%</i>	<i>4%</i>	<i>22%</i>	<i>10%</i>	<i>2%</i>

Source: Board of Equalization Data

Additional information regarding how Santa Clara appeals processes compare with these counties can be found throughout this report, and in Attachment A.

Additional Requested Analysis of Application Fee Refunds

As part of the survey of other jurisdictions, the practice of refunding assessment appeals application fees in the event of successful appeals was included. Exhibit 8 below identifies fee refund practices in the 10 largest California counties.

Exhibit 8

**Assessment Appeal Fee Refund Practices in the County of Santa Clara
and the 10 Most Populous California Counties**

County	Refundable Fee?
Alameda	No
Contra Costa	No
Fresno	N/A (no fee)
Los Angeles	N/A (no fee)
Orange	N/A (no fee)
Riverside	Yes
Sacramento	No
San Bernardino	No
San Diego	N/A (no fee)
San Francisco	No
Santa Clara	No

Source: Management Audit Survey

Based on the survey information obtained, fee refunds are uncommon and are currently only practiced in the County of Riverside. Further, in four of the 10 survey counties there is no fee to file an assessment appeal application. In the remaining five counties fees are non-refundable.

If Santa Clara were to adopt a fee refund, it would result in a modest cost to the County. As previously noted, most appeals in the County of Santa Clara are resolved via stipulation or other means and only a small number of appeals prevail at value hearings. For example, in FY 2013-14 there were a total of 186 appeals that received reductions via appeals board action. To refund the County’s \$40 application fee would have resulted in a cost to the County of \$7,440. However, if stipulations resulting in reduced assessments are included, the annual cost to the County would amount to

about \$148,240, including both hearing-based refunds and stipulation-based refunds. These estimated costs only include the refund of the application fee and do not include the cost of County staff time to process the refund and issue a warrant, which is estimated to amount to \$33.91 per refund. Based on processing time estimates made by the Clerk of the Board, the cost to the County of staff processing time would amount to an additional \$6,308 for just the refunds resulting from hearings, and an additional \$119,372 for refunds resulting from stipulations. In total, the refunding cost for all refunds including both the fee and the processing cost would amount to \$273,920 (fees of \$148,240 and processing costs of \$125,680)².

Refunding application fees for prevailing assessment appeals applications is a policy decision for the Board of Supervisors.

Acknowledgements

We would like to thank the staffs of the Clerk of the Board, the Office of the Assessor and the Office of the County Counsel who provided full cooperation and assistance throughout this process. We would also like to thank the members of the assessment appeals boards who made themselves available to the audit team.

² It is noted that most of the additional workload would amount to 0.39 full-time equivalent position (FTE) of a Board Clerk I, and 0.52 FTE of a Senior Account Clerk, which potentially could require additional staffing.

1. Role of County Counsel

Background

The Office of the County Counsel serves as the legal advisor for multiple County offices that participate in the assessment appeals process. (This section of the report focuses on the legal services provided by the Deputy County Counsel assigned to represent the Assessment Appeals Boards.) The legal services described in this section of the report encompass assessment appeals-related functions, including advice and counsel to the assessment appeals value boards and hearing officers; advice and counsel to the Clerk of the Board; preparation of written findings of fact; review and approval of all stipulations prior to Assessment Appeals Board review; and responsibility for revising the County's Local Rules governing assessment appeals included in the County Ordinance Code.

Problem

The scope of County Counsel's role at Assessment Appeals Board hearings and during the stipulation review process has not been sufficiently delimited in the County's adopted Local Rules as well as other key statutes and departmental policy and procedure documents. Counsel regularly provides unsolicited input on procedural, administrative, and evidentiary matters which Counsel reports is intended to facilitate the hearings. However, this practice is inconsistent with current County policies and Local Rules. This information should be provided by hearing officers or board members, the Clerk of the Board, or the Assessor's Office, depending on the context.

Adverse Effect

These actions can compromise the efficient conduct of distinct County functions as required or intended by State law, the County Ordinance Code, and the County's adopted Local Rules. Without clearer boundaries, better defined responsibilities, and a more distinct division of labor, there are risks concerning the appearance of potential conflicts of interest, due process, inefficiencies during hearings, as well as customer service and communications issues.

Recommendations, Savings and Benefits

By clarifying the duties and responsibilities of the Deputy County Counsels assigned to the Assessment Appeals Boards and the Assessor, and formalizing related written policies and procedures and the Local Rules in the County Ordinance Code, County Counsel could avoid the appearance of potential conflicts of interest, increase efficiencies, and reduce costs by approximately \$11,000 to \$29,000 annually.

EXPANSION OF COUNTY COUNSEL ROLE

The State and local statutes governing assessment appeals provide for County Counsel to serve as the county legal advisor, to draft written findings of facts, and to sign off on value stipulations.

The 1992 management audit for the Assessment Appeals process recommended County Counsel take an expanded role at assessment appeals hearings by (1) attending all hearings and (2) providing expanded “legal advisory services”.

Both recommendations were implemented. The current Deputy County Counsel provides legal advice and general counsel to three Assessment Appeals Boards, two Value Hearing Officers, and the Clerk of the Board. Over time, Counsel’s role has expanded further to include greater involvement in the review and approval of stipulations. County Counsel is also responsible for the drafting and revision of the County’s Local Rules.

STATUTES CONCERNING COUNTY COUNSEL ROLE¹

The County of Santa Clara Ordinance Code governing “Legal Advice” for Assessment Appeals Boards and Assessment Hearing Officers states that “[t]he County Counsel or his designated representative shall, upon request, give legal advice to the Boards.” Beyond the provision of providing “legal advice” upon request, however, the statutes remain vague on the scope of Counsel’s advisory role at hearings.

Section 301 (l) of the County’s adopted Local Rules identify the “County legal advisor” as “the county counsel of the county... specifically retained to advise the county board of equalization or assessment appeals board”.

Section 31000.7 of the California Government Code states that County Counsel may represent the assessor and the county board of equalization, but clarifies that it should not be the same individual representing both parties. According to *Midstate Theatres, Inc. v. Stanislaus County* (55 Cal. App 3d864), “[r]epresentation of the assessor and the county board of equalization results in a denial of due process by depriving the taxpayer of a fair hearing.”

The State Board of Equalization Assessment Appeals Manual further states that County Counsel should avoid conflicts of interest by “imposing a distinct division of responsibilities between the attorney representing the appeals board and the attorney representing the assessor... Any county that cannot effectively erect an *ethical wall* between attorneys representing the appeals board and the assessor should obtain

¹ A full citation of these statutes is provided in Attachment 1.

separate independent counsel to advise the board or the assessor.”

Finally, according to Section 316 of the County’s adopted Local Rules, stipulations are “...signed by the Assessor and the County legal advisor on behalf of the County, and by the person affected or the authorized agent making the application, as to the full value and assessed value of the property and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised”.

Board Chair Discretion at Hearings

According to the County’s adopted Local Rules Section 310, “The board shall select one of its members to act as chair and preside over all hearings... The chair shall exercise such control over the hearings as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.”

In general, hearings are informal and Board chairs have discretion to allow hearings to proceed as they see fit. Although as noted above, the Ordinance Code specifies that County Counsel shall give legal advice “upon request,” Board chairs may allow significant back-and-forth amongst the various concerned parties on any number of issues.

COUNTY COUNSEL ROLE AT VALUE HEARINGS

In October 2014, the management audit staff attended hearings of all three Assessment Appeals Boards and one Value Hearing Officer.

On several occasions the Deputy County Counsel was observed providing unsolicited input on procedural, administrative, or evidentiary matters that would be more appropriately provided by hearing officers or board members, the Clerk of the Board, or the Assessor’s Office. Although Counsel reports that observed activities were meant to facilitate the hearings, the observed actions can instead compromise the efficient conduct of distinct County functions as required or intended by State law, the County Ordinance Code, and the County’s adopted Local Rules, as well as contribute to inefficiencies during hearings. The following text describes four specific examples from hearings, including direct quotations and summarized management audit staff concerns.

Agenda item 18 from Value Hearing Officer, October 15, 2014 hearing

This item concerned a Limited English Proficient appellant. Due to the nature of the appeal, the burden of proof was on the appellant to present his case; however, the

appellant was not ready to present. The appellant admitted that he had not understood how the assessment appeals process was supposed to work, and further stated he had experienced difficulties communicating with the Assessor's Office. The Value Hearing Officer then discussed the options of postponing the hearing to give the appellant more time to prepare, or moving forward.

Value Hearing Officer (VHO): Without a lot of evidence from your side, I might not have a full – I might not be able to make a good determination because I might not have enough information from you. That's all I'm saying.

Appellant: I agree. So, thank you. I just need the time to see the appraisal from the Assessor's Office. To get all the paper--

Deputy County Counsel (DCC): That- that-... Sir, that's not the way things work. This is your hearing date, today. And you have-- because it's not an owner-occupied property, you have the burden of going forward and putting on your case.

Appellant: I-- I--

DCC: Please- please- please let me finish. Normally, if we had not been at the hearing date yet, there could be a 1606 exchange that you initiate by providing your comparable sales to the Assessor, and then they provide their comparable sales, and certain information, but not a full appraisal, in response. We don't typically continue hearings for the purpose of initiating a 1606 exchange. So, it might be – we'll leave it up to [APPRAISER X] to discuss – they may wish to sit and informally discuss with you and see if you can reach a stipulation. But continuing a hearing does not mean that the Assessor is agreeing to turn over an appraisal to you, because the law does not require that. I just want that to be clear. And I also want to hear from [APPRAISER X], and whether [APPRAISER X] objects to the hearing being continued. Because normally, once the applicant is here, and the hearing starts – that's it. And the hearing goes forward unless there's a good reason not to. Because this is their hearing date. So if [APPRAISER X] doesn't have any objection it can be postponed to give the applicant time to have informal discussions with the appraiser. But I just want both sides to be clear.

Assessor's Office: So, I'm recommending no change on this one...

The appraiser from Assessor's Office continued in this vein, and explained he was aware of some of the communication issues raised by the appellant. The Assessor's Office had asked for certain information from the appellant but had not been satisfied with what they received in response. The representative stated he was fine with the

hearing being postponed to give the appellant more time to prepare, but also said that he would not be making changes to his appraisal, and that there would not be a stipulation.

VHO: So my recommendation is we postpone and not have any further conversation and what you need to do is you need to get [APPRAISER X's] card and have a conversation with them about exchanging information, et cetera--

DCC: Well, let me clarify here, no, because we don't postpone hearings in order to first initiate a 1606 exchange. Applicant needed to have done that prior to the hearing. So, the – it's too late for there to be a 1606 exchange. And the Assessor is not obligated to provide their appraisal to the applicant in advance of the hearing. Applicant needs to be prepared today to present his own case. Normally we don't postpone once a hearing has started just because someone has failed to bring evidence with them. It sounds like [APPRAISER X] is not objecting to that, and it is certainly within your discretion to do that, if you want, however it's not something that we normally do. But that is within your discretion. What applicant would need to do, he would need to prepare his case, and if he thinks he has evidence sufficient to change the Assessor's mind, he could certainly have an informal discussion with [APPRAISER X]. But what [APPRAISER X] is telling us is that, based on what the applicant has told us, so far, that he's not going to be recommending any reduction of value.

The Deputy County Counsel later stated to the appellant, who continued to voice objections and concerns, that the hearing officer had "very very very unusually" and "very kindly" offered an opportunity to postpone and that "the choice is yours" whether or not to accept the postponement.

Auditor concerns:

- Counsel is not the appropriate representative to offer unsolicited explanations to appellants regarding "the way things work", particularly while a resident is speaking and attempting to articulate their concerns. This should be handled by the Value Hearing Officer, who has sole authority to preside over the hearings, make rulings on procedural matters, admit or exclude evidence, and ultimately come to value decisions as specified in Section 310 of the County's adopted Local Rules and the State Constitution. Counsel's primary role is to provide legal advice to the hearing officer. In addition, it is not clear why Counsel was the first to respond to and reject the appellant's question regarding whether or not they could see the Assessor's appraisal. This request should also have been handled by the

Assessor's Office or the Value Hearing Officer.

- Given the “ethical wall” that is supposed to exist between attorneys representing the board and attorneys representing the Assessor, it is problematic for Counsel to (1) proactively solicit the Assessor's Office preferences regarding how they wish to proceed on procedural matters that fall under the discretionary authority of the hearing officer; (2) offer unsolicited explanations to the hearing officer or appellant regarding what the Assessor's Office is or is not obligated to do; and (3) offer unsolicited summaries of the preferences expressed by Assessor's Office representatives. The solicitation of Assessor's Office preferences should be more appropriately handled by the Value Hearing Officer in the event that the hearing officer specifically desires clarification from the Assessor's Office, or has requested that Counsel clarify a relevant statutory question. Finally, the Assessor's Office and the Value Hearing Officer are capable of articulating their own procedural preferences without additional assistance from the hearing officer's Counsel.
- Counsel offers repeated, unsolicited interjections about what is “normal” although it has no legal bearing on whether the hearing officer has discretion to postpone the hearing. These interjections, and related ones concerning the hearing officer “unusually” and “kindly” offering a postponement option to the appellant, create the appearance that Counsel is attempting to influence the choice of one procedural outcome over another. The “normal” procedural outcome as defined by Counsel in this instance would be disadvantageous to the appellant and therefore advantageous to the Assessor by default. Again, given the explicit division of labor between Counsel representation for the hearing officer versus the Assessor's Office, and the hearing officer's authority to decide on procedural matters, Counsel should be more judicious in offering procedural advice of this nature.
- From a substantive perspective, this was a relatively straightforward item: (1) a Limited English Proficient appellant was not ready to present due to communication difficulties and a lack of understanding of the appeals process, (2) the hearing officer exercised her discretion to continue the hearing to give the appellant more time to prepare, and (3) the Assessor's Office did not object to the postponement. Counsel's repeated unsolicited interjections unnecessarily prolonged discussion of the item in addition to usurping functions more appropriately

performed by other County staff. Finally, from a public interest and customer service perspective, the County needs clearly defined responsibilities and procedures pertaining to each of the participants in the appeals hearing process. This issue is discussed in more detail in Section 5, specifically as related to Limited English Proficient appellants.

Agenda Item 22 from Board I, October 8, 2014 hearing

This item concerned a request to amend an application. Discussion of the item opened with the Clerk of the Board providing a summary, noting that the application had been filed in 2007 for a 2005 escape assessment. Following the Clerk's summary, the Deputy County Counsel was the first individual to speak.

DCC: Is this application 07.29**? This application was decided in the fall of 2011, and findings were prepared by the applicant, and signed by the Board in March of 2012. So this isn't a pending application, this is an application that has long since been heard in its finality.

Applicant's Agent: Actually it was only partially decided...

The agent further explained relevant details surrounding an inventory issue, and stated there was a letter dated April 28 that covered the relevant issues clarifying that it was still a live matter. This engendered additional discussion between the appellant's agent and Counsel for the Assessor's Office, who objected to the application. The board further discussed whether there was jurisdiction to consider the amendment.

DCC: My recollection is that there was a hearing where [Applicant's Agent] asked to amend an application and it was very confusing what he was speaking about, and the Board asked him to submit a request in writing – I'm assuming that's this one – he submitted the letter on April 28. And now he's here to *{inaudible}* that. My concern lies with the fact that the application at issue was heard and decided several years ago and now there's a request to amend an application that was already decided.

Continued discussions followed, and the Board asked whether they had jurisdiction.

DCC: The way I look back through it there's not an application currently pending before the board. The application was heard, the application was decided, findings were issued, and the board doesn't have jurisdiction to re-look at that. Applicant seems to be saying, "Well, what we'd like to do is amend the application to add something that could have been added at the time – so you're not re-making the same decision that you already made. But my evaluation

would be that that application's been heard, and been decided, and is complete and is no longer pending. Much like a complaint in the court, once a judgement's been rendered it's a little late to amend the complaint.

Board Member: But [Applicant's Agent] is indicating that the application that was heard had only to do with whether it was inventory or not.

Continued discussions led Board members to determine that it was a valid application and therefore a "live" issue, and that they had discretion to consider the appellant's request to amend the application. Counsel subsequently admitted that her assessment had been mistaken, and the Board voted to take the matter under submission.

Auditor Concerns:

- Counsel repeatedly (three times) provided incorrect information, arguing that an application had already been decided when it was in fact pending, as evidenced by the fact that it had previously been continued at the Assessor's request and was on the agenda for the hearing date. Counsel's judgment was unsolicited the first two times, and on the first instance came before any parties had begun their presentation, and before board members had asked any questions about the appeal.
- If Counsel's judgment had been sustained without being appropriately challenged, it would have disqualified the application and prevented a hearing from taking place on a valid appeal, resulting in a denial of due process for the appellant. This outcome would have favored the Assessor's Office by default to the disadvantage of the appellant.
- The unsolicited input led to inefficiencies at the hearing, causing discussion and debate of a non-issue.

Agenda Item 21, Value Hearing Officer, October 15, 2014 hearing

In this incident the Assessor's Office had given its presentation and the appellant had begun her rebuttal. The appellant expressed confusion over her appraisal because the previous year she had her property assessment reduced by a hearing officer, but that reduction didn't appear to be reflected in the current year's assessment.

Appellant: So – how does this... I was lowered last year... It should be compared to last year... You can take those [exhibits].

VHO: So we'll put into the record Applicant's Exhibit 1.

DCC: It appears, and I'll ask applicant about this, that applicant's mentioning and attempting to introduce evidence regarding assessed value, is that correct?

Appellant: Yes, assessed value. Last year.

DCC: And for the information of the hearing officer, the Revenue and Taxation Code and Property Tax Rules do not allow the hearing officer to consider assessed value. The hearing officer must consider the condition of the property and the values of comparable sales on the lien date.

VHO: Do you understand that? Assessed value isn't one of the criteria that I use. That I can use--

DCC: That she's allowed by law to use.

Appellant: Last year's assessed value, you are not going to use it?

VHO: Nope.

DCC: She's not allowed by law to use it. The law prohibits it.

Appellant: ... That's strange.

VHO: Because what can happen is values can go down. And the assessments can go down. But they can go back up again also.

This generated some additional conversation about the historical movement of the property's assessed value, with the appellant clearly believing in a relationship between year-over-year values, the Value Hearing Officer suggesting that the Assessor's Office might be able to comment on that, and the Deputy County Counsel again stating that by law assessed value cannot be considered and that the hearing should continue on.

Appellant: Yeah, I have that question. Because last twelve years only one time it went lower, other times always went up – high. And it is always up high, related to the year before.

DCC: Yeah- the assessed-- the hearing officer can't consider assessed value so we should move on to the next topic that you want to present.

Later in the hearing the conversation is covering additional related topics.

VHO: They base it on purchase price, not size of lot, and all that kind of stuff.

Appellant: Ok but when they compare the other houses in that area every year that is also because last-- last year when I came--

DCC: All we can talk about at this hearing, and I'm sorry I have to interject, all we're by law allowed to talk about at this hearing is this year. And the value of the property on the date at issue which is January 1, 2013 for this year. The condition of the property, comparable sales... assessed values for other years is not a proper subject of evidence at this hearing. The law does not permit it.

Auditor concerns:

- It is more appropriately the job of the hearing officer to determine when the hearing "should move on to the next topic", and also to explain the jurisdiction and authority of the hearing officer to the appellant. In addition, Board counsel should not be the first person questioning the appellant about their evidence or presentation; that is more appropriately a role for the Assessor or the hearing officer.
- Counsel should also not be "objecting" while an appellant is in the middle of speaking; again that is a more appropriate role for the hearing officer who has authority to preside over the hearing, or for the Assessor if they have a specific objection. This is both a professional courtesy to a taxpaying resident and because, as mentioned previously, the resident's concerns could have potentially been addressed in an alternative manner, had she been allowed to articulate them fully.
- Counsel did clarify one potential issue regarding the consideration of assessed value. Although this clarification was unsolicited, and one would assume that the hearing officer is aware of what evidence they are allowed to consider, Counsel went further and clarified this single point eight different times to the appellant. After having clarified the statute once for the benefit of the hearing officer, continued communication with the appellant regarding this topic should have been better handled by the presiding officer. For an appellant not well-versed in the assessment appeals process it might create confusion as to who is the actual presiding authority in the hearing.

Agenda Item 11, Value Hearing Officer, October 15, 2014 hearing

This item concerned whether there were sufficient copies of an appellant's evidence.

VHO: It doesn't look like there's an appraisal in the file, from him, right – correct?

DCC: Did you submit a copy of the appraisal to the appeals board as part of this

appeal? Or just to the assessor when you were dealing with the assessor?

Appellant: Prior to even having information about the re-appraisal, probably in January or February, I wrote a letter to the County Appraiser's- Assessor's Office enclosing the copy of the report.

DCC: This is the- this is the- this is the Assessment Appeals Board, so it's the administrative court that hears disputes. So anything that you gave to the Assessor, that's to the opposing party, the court – the hearing officer – doesn't have that unless you brought it with you to give the hearing officer. Because she's the judge that solves the dispute between you and the assessor. So she can only make determinations based upon evidence that you bring in, and put before her. Anything that you gave to the assessor to try and formally resolve with the assessor, she doesn't have.

Appellant: I can give you the summary sheets of the appraisal, if you need- if you'd like to see those.

DCC: Anything you have that you can give to her would be good.

The Assessor's Office then offered to make a copy of the appraisal.

VHO: Yes.

DCC: That would-... Thank you.

[Continued cross-talk]

DCC: And thank you to the Assessor's Office for agreeing to get the copies made.

VHO: So--

Appellant: I can give you the copies [continues talking]

DCC: The Assess- the Assess- the Assessor's Office... Right. The Assessor's Office has kindly offered to make four copies of the entire appraisal, so that the hearing officer can look at it.

The hearing officer announced a short recess so copies could be made. Counsel then thanked the Assessor's office representative directly for agreeing to make copies.

DCC: Thank you again, [Appraiser Y].... [To hearing officer:] That's nice. That's above and beyond the call of duty for the Assessor.

VHO: Yeah. I think it's worthwhile.

Auditor concerns:

- As previously stated, procedural and evidentiary questions should be handled by the Value Hearing Officer, and administrative questions by the Clerk of the Board. The hearing officer should be fully capable of explaining the function of the assessment appeals hearing to the appellant, and the Clerk is the more appropriate body to answer questions and facilitate any issues surrounding copies. Again, Counsel is there to provide legal advice to the hearing officer and not administrative support.
- Counsel directly or indirectly thanked the Assessor's Office five different times for the performance of a rudimentary courtesy (i.e., "going above and beyond the call of duty"). This raises concerns regarding Counsel's independence from the Assessor's Office.

COUNTY COUNSEL ROLE IN REVIEWING STIPULATIONS

The Deputy County Counsel indicated in interviews that Counsel's role in reviewing stipulations includes evaluating the Assessor's Office explanation of value decisions, asking for additional information when there are perceived gaps or errors, and determining whether the Assessor's Office facts and reasoning have sufficient backup to "pass the smell test." This represents a departure from recent history, where Counsel review of stipulations was less intensive, and generally – as in other comparable California counties – "as to form."²

The current stipulation workflow involves the Standards Division of the Office of the Assessor sending stipulation packets to the Office of County Counsel for Counsel review. Counsel will either approve the stipulation, or send them back to the Office of the Assessor with questions.

A management auditor review of sample stipulations, as well as Counsel and Assessor email exchanges, raise questions about the appropriate scope of this work, and the appropriate division of labor between the Board's Counsel representative and the Office of the Assessor. According to data from the Assessor's Office, from October 2012 through December 2014, approximately eight percent of all stipulations reviewed by the

² This is generally accepted to mean that an attorney has designated the agreement as legal, valid, and binding. It is not necessarily a guarantee or endorsement of all the precise details contained in the agreement itself.

Deputy County Counsel, or 406 of 5,087 stipulations, were returned with comments, corrections, and requests for clarification.

The emails reveal that Counsel feedback include comments, corrections, and objections that occasionally get into highly detailed technical issues regarding valuation, comparable property adjustments, market value, buildable land, lien dates, easements, and a host of other issues, including basic math errors. This feedback is then taken into account by appraisers and addressed in the finalized stipulations.

Examples of E-Mailed Stipulation Exchanges

Below we quote directly from Counsel's emails to the Assessor's Office.

Example 1 – Email from November 5, 2014

- It looks like this stip/backup has a bunch of small math errors or typos that make it inconsistent and make the math inaccurate
- In the reconciliation box, it says \$861,076.
 - Where does that # come from and where does the \$21.49/square foot come from?
 - Also, 861,076 divided by \$21.49/square foot yields square footage that is about 4+ square feet bigger than the subject property
 - Under the cost approach the land value of \$1.2m less cost to cure is shown as \$861,066 – is the 861,076 in the reconciliation box a typographical error that was meant to say \$861,066? If so, applying the 21.49/square foot does not yield accurate square footage for the building – it is still about 4 square feet bigger than the subject property.
 - On the long sheet, the cost to cure is listed as \$338,934 but on the page with page 7 in the upper right hand corner it is listed as \$339,924

Example 2 – Email from October 28, 2014

- The subject is in Los Gatos but all comps are in Morgan Hill more than 10 miles away. Please provide a map and also a more detailed discussion of why these comps are appropriate (e.g. are there any unbuildable lots closer to the subject and in more comparable cities that would make decent comparables.)
- Although these two stips are for the same parcel, the narratives don't relay the same information. One talks about a landlocked unbuildable flag lot, the other

talks about unbuildable land in a resource conservation zone. Please redo both narratives and provide a better and more detailed narrative. E.g.

- Why is the lot considered unbuildable? One of the two narratives mention it is land-locked – does that mean it has no easement for ingress/e-gress and is therefore unbuildable.
- The narratives mention school district, if the lot is unbuildable, does that matter to value? If it does, is Morgan Hill really a good comparison to Los Gatos.
- For the first stip, lot 2 is more than 2x the size of comp 1 – does the additional land add any value?
- Why does 1 stip go by site value but the other stip goes by \$/acre?

Example 3 – Email from September 4, 2014

- The roll value - \$5,017,500 - is within the range of the adjusted comps: Comp 1 \$4.575 million – Comp 3 \$5,056,937. Given that the roll value is well within the range of the adjusted comps, why is it getting a stipulated reduction?
- Moreover, comp 3 has no net adjustments and is by far the least net adjustments (and while [APPRAISER X] generally goes by gross adjustments, [APPRAISER Y] who wrote this one almost always goes by net adjustments, but did not here. Why?) Comp 3 is also by far the closest in proximity to the subject.
- Although comp 1 is most proximate to the lien date, it is also the furthest comp away – 2.85 miles away from the subject (whereas comp 3 is only 1.77 miles away.)
- Given that the roll value is within the adjusted comp range and comp 3 – the least net adjustments and most proximately located is at a higher value than the subject's roll value, I am not comfortable signing this stipulation. Perhaps a more detailed narrative on the subject of why despite the above the value should be reduced would give me more comfort.

Example 4 – Email from July 1, 2014

- Narrative needs correction.
 - Stip value is 220k
 - Comps 1 and 4 have adjusted values of about 220K

- Comps 2 and 3 have adjusted values of about 240K
- Narrative says it keys off comp 1 (about 220K) b/c comp 1 is closest to lien date and has the least gross/net adjustments
 - But comp 1 sold on 3/13/13 and has 20% adjustments. It is the furthest from the lien date and does not have the lowest adjustment.
 - Comp 3 (sold for 239k) has the lowest gross adjustments (17% or \$34,900) and sold very close to the lien date b/c it sold on 1/7/13
 - Comp 4 (221.9k) is the comp that sold closest to the lien date (12/31/12)

Division of Labor & Conflict of Interest Appearance Concerns

As noted above, approximately eight percent of all reviewed stipulations were returned with comments and corrections. Within this subset of returned stipulations, detailed Counsel comments and corrections were often sustained in finalized stipulations. In the event the comments and corrections were useful and constructive for the appraiser, they would more appropriately have been the responsibility of the supervising appraiser tasked with quality control of staff appraisals and related analysis.

In addition to being outside of the scope of traditional legal advisory services, these activities could be interpreted as strengthening and buttressing the Assessor's reasoning for arriving at stipulated values with appellants prior to Board review of the agreement. As previously noted, the California Government Code provides for Counsel representation of the Assessor's office but states it should not be the same individual who represents the Board. At present the Deputy County Counsel is able to pass judgments about the perceived quality and completeness of Assessor's Office appraisals based on familiarity with the workflow preferences of individual appraisers, as evidenced by the comments on stipulation "13.F2**". This indicates a level of involvement that has likely become too close.

Although the standard for "representation" is not entirely clear here, there remains a necessary division of labor between different County functions that is being overstepped. If the information to justify value determinations provided by appraisers in the Office of the Assessor is insufficient or problematic in any way, it is more appropriately the job of supervising appraisers, or the legal counsel to the Assessor, to find and address these issues, not the legal counsel to the Appeals Board.

Further, it is Board members themselves, as the County's independent experts on equalization, who should be requesting clarification and follow-up. A closer review by Board members might reveal that the errors are indicative of a sub-par or otherwise problematic appraisal, and the proposed stipulation should be carefully reviewed by the Board, or even rejected. Rejected stipulations, however, are very rare.

For these reasons, it is likely outside the scope of Counsel's responsibility as the Board's legal representative to delve into this level of detail and perform a quality control function with stipulations for the Office of the Assessor. A more appropriate course of action might be to decline approval of the stipulation and provide focused feedback on legal issues and liabilities. Supervisors within the Assessor's office should then determine how best to address any underlying problems with the appraisal and value determination itself.

At present, reviewing stipulations takes a considerable amount of the Deputy County Counsel's time. If the Office of the Assessor were to improve their internal stipulation review process it would enable Counsel to spend less time reviewing stipulations. This reduction in the time required for County Counsel to review stipulations is estimated to potentially save the County between \$11,600 to \$29,000 per year.

Ambiguity within Statutes & Lack of Policy Clarity

Similar to the lack of clarity of the role and responsibilities of County Counsel in value hearings, the County Ordinance Code and the Local Rules are vague on the scope of Counsel's role during the stipulation review process.

As previously stated, stipulations are:

“...signed by the Assessor and the County legal advisor on behalf of the County, and by the person affected or the authorized agent making the application, as to the full value and assessed value of the property and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised”.

The Local Rules do not, however, designate specific responsibilities for Counsel or the Assessor, or specify the nature of Counsel's role during this process. The line between a value determination and the legal basis for a value determination is somewhat unclear.

The lack of defined job responsibilities, as well as the lack of a clear policy on stipulations both within County Counsel and in the Office of the Assessor, creates additional confusion. Regardless, it is clear that Counsel is currently filling a gap that

should be filled on the Assessor side by supervisors and/or the Deputy County Counsel representing the Assessor, or by Board members themselves.

CONCLUSION

It should be noted that there does not appear to be anything unethical taking place at a systemic level, and for the most part it appears that the Deputy County Counsel is simply trying to facilitate the overall assessment appeals process. However, observed practices by the Deputy County Counsel representing the Appeals Board and Hearing Officers raise reasonable concerns that Counsel is providing unsolicited input on procedural, administrative, and evidentiary matters which is inconsistent with current County policies and Local Rules as related to the role of the legal counsel to the Board. These issues should be handled by hearing officers and board members, the Clerk of the Board, or the Assessor's Office, depending on the context.

This situation has arisen because the precise role of Counsel has not been adequately defined or delimited in the Local Rules and other relevant statutes, both at appeals hearings and for the stipulation review process.

The County Counsel should therefore have an official written description of roles and responsibilities with respect to the assessment appeals function, and should develop written policies and procedures pertaining to its various assessment appeals functions. In addition, the Office of the Assessor must adopt clearer guidelines and best practices for stipulations, and come to a consensus with Counsel about the appropriate division of responsibilities in reviewing stipulations.

Without clear boundaries, better defined responsibilities, and a more distinct division of labor, there are risks concerning the appearance of potential conflicts of interest, due process, inefficiencies during hearings, as well as customer service and communications issues. These actions can compromise the mandate of distinct County functions as required or intended by the State law, the County Ordinance Code, and the County's adopted Local Rules, and best practices as defined by the State Board of Equalization Assessment Appeals Manual.

RECOMMENDATIONS

The County Counsel should:

1.1

- a. Solicit input from Assessment Appeals Board members, Value Hearing Officers, the Assessor's Office, and the Clerk of the Board to develop an official Deputy County Counsel job description with specifically defined responsibilities for

Assessment Appeals functions, and include separate job descriptions for the Deputy County Counsels assigned to the Assessment Appeals Board and the Office of the Assessor. (Priority 3)

- b. Work with the Assessor's Office to jointly develop a policy regarding the role of County Counsel during the stipulation review process. (Priority 3)
- c. Codify the updated duties and responsibilities of County Counsel in the next revision to the Local Rules, to be approved by ordinance of the Board of Supervisors. Further, Local Rules, Section 301 should clarify the authority of County Counsel to represent both the Assessment Appeals Board and the Office of the Assessor, pursuant to the condition that the same individual does not perform both functions. (Priority 3)

The Office of the Assessor should:

- 1.2 Revise and strengthen existing policies and procedures implementing best practices for the development and review of stipulations to enhance the quality control of proposed stipulations. (Priority 3)

SAVINGS, BENEFITS and COSTS

Implementation of these recommendations would clarify the duties and responsibilities of the Deputy County Counsels assigned to the Office of the Assessor and the Assessment Appeals Boards and avoid potential conflicts of interest or the appearance of a conflict of interest by County Counsel when providing legal services to participants in the assessment appeals process. In addition, implementation of recommendation 1.2 would result in a net reduction of County Counsel costs, estimated at between \$11,000 to \$29,000 per year.

ATTACHMENT 1 – STATUTES CONCERNING COUNTY COUNSEL ROLE

County of Santa Clara Assessment Appeals Board Local Rules

§ 301. DEFINITIONS AND GENERAL PROVISIONS.

Reference: Sections 110, 110.1, 110.5, 1601, 1603 et seq., Revenue and Taxation Code.
Section 31000.6, Government Code.

(l) "County legal advisor" is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, or outside counsel specifically retained to advise the county board of equalization or assessment appeals board.⁴

⁴ Government Code section 31000.7 allows the County Counsel to represent both the Board and the Assessor.

§ 308. REQUEST FOR FINDINGS.

Reference: Sections 1603, 1611.5, 1611.6, Revenue and Taxation Code.

- (a) If an applicant or the assessor desires written findings of fact, the request must be in writing and submitted to the clerk before commencement of the hearing. The requesting party may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons the request at this time, the other party may orally or in writing renew the request at the conclusion of the hearing and accompany the request with payment of the required fee or deposit. The county may impose a reasonable fee, as determined by the board of supervisors, to cover the expense of preparing the findings and conclusions and may require a deposit to be paid prior to the end of the hearing.¹¹ If, at the conclusion of the hearing, a party requesting written findings has failed to pay the required fee or deposit, the board need not prepare written findings. The board may deny a request made after the conclusion of the hearing that seeks to waive written findings.

¹¹ Under County Ordinance Code §A4-23 the party must pay a fee for written findings of fact in the amount of a \$400 non-refundable deposit, plus the balance of costs incurred by the County legal advisor in preparing the findings. The deposit must be paid before the matter is submitted for decision. Any additional amount will be billed by the County and must be paid prior to the transmittal of the findings and conclusions to any party.

§ 314. LEGAL COUNSEL FOR APPLICANT AND ASSESSOR.

Reference: Sections 1620 et seq., 1638, Revenue and Taxation Code.

The applicant and the assessor may be represented by legal counsel, except that when an assessment protest is heard by a hearing officer²⁴ appointed pursuant to section

1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.^{25 25} If the applicant or agent will use legal counsel, reasonable advance notice must be given so that the Assessor's legal counsel may attend.

§ 316. EXAMINATION OF APPLICANT BY BOARD.

Reference: Sections 1605.5, 1607, 1608, 1620 et seq., Revenue and Taxation Code.

(b) In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county and by the person affected or the authorized agent making the application, as to the full value and assessed value of the property and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised, the board may, at a public hearing,

- (1) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with section 1610.8 of the Revenue and Taxation Code, or,
- (2) reject the stipulation or set or reset the application for reduction for hearing.
- (3) The board may, in its discretion, waive the examination of the applicant or the applicant's agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or the applicant's agent requests such waiver in the application [SECTION CONTINUES...]

California Government Code

Section 31000.7. The same law firm shall not be employed to advise or represent both the assessor and the county board of equalization on any matters relating to hearings before the county board of equalization. This prohibition shall not apply to the county counsel's office. Individual representatives of that office may represent the assessor and the county board of equalization, as long as the same individual does not represent both parties.

Santa Clara County Code of Ordinance – Division A4

Chapter II Assessment Appeals Boards

Sec. A4-20. - Legal advice.

The County Counsel or his designated representative shall, upon request, give legal advice to the Boards.

Sec. A4-21. - Findings of fact.

If requested in accordance with the provisions of the California Revenue and Taxation Code, findings of fact shall be drafted by the counsel to the Boards pursuant to the direction of the chairperson of each Board.

Chapter III Assessment Hearing Officers

Sec. A4-34 - Legal advice.

The County Counsel or his or her designated representative for the Assessment Appeals Board shall, upon request, give legal advice to the hearing officers.

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2. Office of the Assessor - Assessment Appeals Oversight, Goals and Performance Management

Background

From FY 2009-10 through 2013-14, the County of Santa Clara received nearly 43,000 assessment appeals applications, with a significant spike in FY 2009-10 as a result of the economic recession. That spike created a backlog of appeals, forcing the County to increase staffing and expand the number of appeals resolution Boards and officers. Even with these organizational changes and a declining volume of appeals, processing of appeals accounts for 22 percent of the Office of the Assessor's workload, the largest single workload component.

Problem

Despite accounting for the single largest workload element in the Office, an inadequate number of assessment appeals training opportunities are available for appraiser staff. Since FY 2009-10, the Department had only one mandatory assessment appeals training session. Further, supervisory oversight of assessment appeals appraisals is not sufficiently rigorous, resulting in errors in appraisals forwarded to hearing boards for their consideration. Lastly, employee evaluations and office performance relative to appeals processing is not measured against individual or office-wide performance goals to determine if actual performance achieved, missed or exceeded objectives.

Adverse Effect

As a result, the Department is unable to ensure consistent practices are used, and performance goals of the Office relative to assessment appeals are met. Consequently, the ability of the Office of the Assessor to identify opportunities for improvement and initiate focused assessment appeals training is reduced.

Recommendations, Savings and Benefits

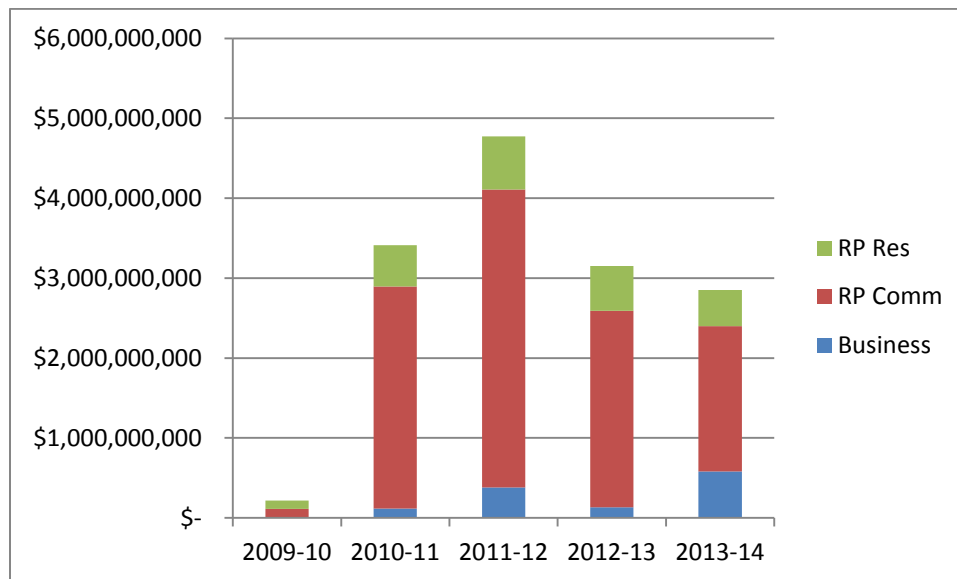
By enhancing assessment appeals training opportunities, increasing supervisory review of stipulation agreements, and developing performance measures related to assessment appeals appraisal quality and productivity, the quality of assessment appeal appraisals could be improved.

As noted throughout this report, County of Santa Clara property owners filed a significantly higher number of assessment appeals in FY 2009-10, following the economic recession. According to the Office of the Assessor's annual Cost Accounting Reports, assessment appeals ranked number one in the "Top 10 Activities in Total

Hours Worked” for the office. In fiscal years 2012-13 and 2013-14, the Office spent 23 percent (or 63,090 hours) and 22 percent (or 62,504 hours), respectively, of its total work hours handling assessment appeals.

During the fiscal years covered by this audit, the total value of reductions from appeals was more than \$15 billion. The exhibit below shows the reductions per year by appeal type. These include Real Property Residential (RP Res), Real Property Commercial (RP Comm), and Business.

Exhibit 2.1
Assessed Value Reductions by Appeal Type and Fiscal Year



Source: Assessor’s Office Data

With over \$357 billion of property on the annual assessment roll, the County must make every effort to ensure the highest performance of appraisers in preparing and managing appraisals for the assessment appeals process.

NEED FOR MORE RIGOROUS SUPERVISOR OVERSIGHT

Although the Office of the Assessor policies make clear reference to supervisory oversight at specific points in the appeals process, hearing observations and records sampling indicate that the current level of supervision is both inconsistent and insufficient, resulting in process delays and errors in stipulations.

Policy Manual Requirements

Both the Real Property Division and the Business Division are responsible for assessment appeals, and both maintain policy documents outlining procedures required of employees assigned to process appeals.

Pre-Hearing Review

The Real Property Division's policy guideline described in Section 8, "Prior to Public Hearing," states that "once the application has been determined to be valid, and no resolution of the issue has been reached, there shall be a pre-hearing review with the Senior Appraiser, Supervising Appraiser, Assistant Chief Appraiser or Chief Appraiser, as appropriate." Guidelines also state that "any new or revised appraisal shall be reviewed by the district Senior Appraiser and/or Supervisor Appraiser." While interviews and workload data suggest that these reviews occur, hearing testimony and sampled records reveal inadequacies in the thoroughness of review.

For example, at the Assessment Appeals Board hearing on October 22, 2014, the Board identified major errors in the appraisals related to three appeals that were discussed. As the appraisers acknowledged their respective errors, Board members responded with comments including, "I hope in the future you'll make sure to clear up the errors" and "You have to consider entitlements and impact fees, not just land sales. If...you don't, we're in trouble. Does the Assessor's Office ever look at that? Or are you too busy?" The impact of the over assessment of value on the appeal related to that last comment alone resulted in a Board approved reduced property value of \$1.2 million.

More consistent standards for the oversight of appeals need to be enforced. The appraisal errors that were clear to Board members should have been identified and corrected by supervisors in advance of the hearing, during the pre-hearing review.

Review of Stipulations

As discussed throughout this report, stipulations represent a common tool for resolving assessment appeals. The exhibit below shows the percentage of appeals resolved by stipulation.

Exhibit 2.2

Number and Percentage of Appeals Resolved by Stipulation

FY Resolved	Resolved By Stipulation	Total Resolved	% Resolved by Stipulation
2009-10 ¹	557	790	70.5%
2010-11	3,585	8,163	43.9%
2011-12	3,848	8,411	45.7%
2012-13	3,485	8,949	38.9%
2013-14	3,440	8,708	39.5%
Total	14,915	35,021	42.6%

Source: Assessor’s Office Data

As discussed in Section 1, stipulations must be reviewed by County Counsel before they are sent to the Board for final approval. However, by the time of Counsel review, in most instances the applicants have already reviewed the revised value and signed the agreement—reinforcing the need for accuracy and oversight. According to the April 2013 training materials on assessment appeals, “before submitting documents to County Counsel, [appraisers should] review thoroughly for accuracy and to ensure they make sense. **Documents should be reviewed by the auditor/appraiser and lead senior/supervisor** [emphasis added].”

Despite these guidelines, which do not appear in current versions of policy documents, it is evident that County Counsel receives signed stipulations with errors that are at times significant. According to the Assessor’s Office, County Counsel returned 406 (or 8 percent) of 5,087 stipulation packets to appraisers for clarifications or corrections (both clerical and technical) between October 2012 and December 2014. Supervisory oversight of stipulations must be consistent and thorough, and should take place before appraisers discuss adjusted values with applicants.

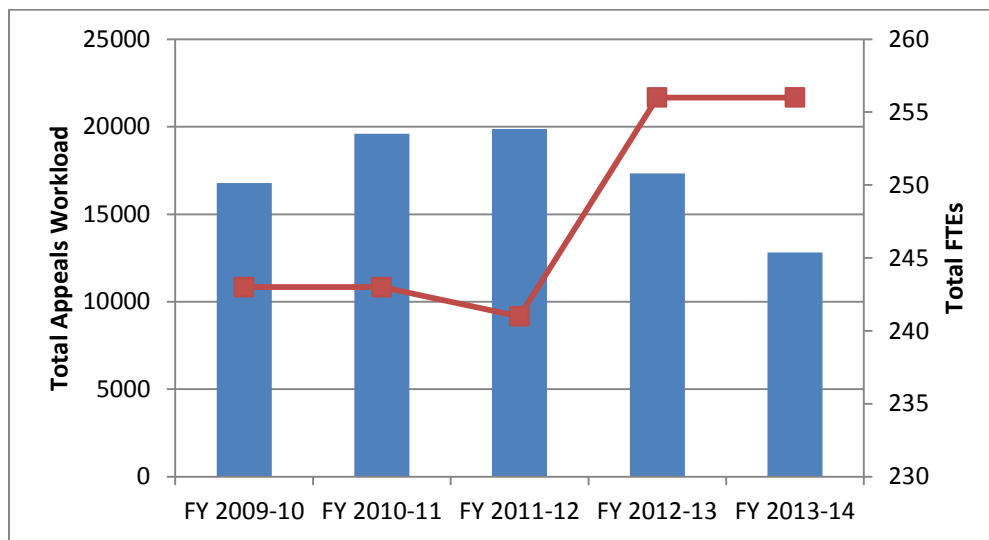
¹ Because the data reviewed for this audit included a limited subset of appeal filed between FY 2009-10 and 2013-14, the figures shown below for FY 2009-10 do not represent the true number of appeals resolved in FY 2009-10, which would have included appeals filed in prior years. According to the Assessor’s Office, the total percentage of all appeals resolved by stipulation in FY 2009-10 was 35.5 percent.

NEED FOR MORE ASSESSMENT APPEALS EMPLOYEE TRAINING

In order to accommodate workload needs, particularly with regard to the assessment appeals backlog, the Office of the Assessor hired new employees, by both filling vacant positions and expanding the workforce. The chart below shows how the number of full-time employees increased relative to changes in the appeals workload since FY 2009-10.

Exhibit 2.3

Total Appeals Workload and FTEs, FY 2009-10 to 2013-14



Source: Assessor's Office Annual Reports

Despite the addition of new employees, the Office of the Assessor has not expanded training opportunities or requirements to ensure consistent and efficient processing of applications. As noted above, although the appeals workload represents about 22 to 23 percent of the Office's entire work hours, training rarely focuses on appeals. In fact, since FY 2009-10, the Assessor's Office has only provided three trainings on appeals, none of which were mandatory for appraisers (March 2010, November 2012 and April 2013). No appeals trainings have been offered or attended since FY 2012-13. Given the complexity of assessment appeals, the inexperience of new employees and the financial risk to the County, it is incumbent upon the Office to provide and require mandatory training on appeals of all appraisers new to assessment appeals, and to provide mandatory training to appraisers working on assessment appeals, as warranted by new procedures, regulations or relevant market changes, to ensure consistent standards.

Changing Complexity of Appeals Requires Increased Specialization

In addition to an overall increase in the number of assessment appeals, the County has faced major changes in the commercial real estate market, with Silicon Valley attracting large, high-profile technology companies to the area. The Assessor notes in the FY 2014-15 Annual Report the “significant increase in the value of property owned by businesses including machinery, equipment, computers and fixtures.” As shown below, the proportion of Business and Real Property Commercial appeals has grown over the past five fiscal years.

Exhibit 2.4

Types of Appeals Filed in Fiscal Years 2009-10 through 2013-14

FY Appeal Filed	% of total		% of total		% of total	
	Business		RP Commercial		RP Residential	
2009-10	630	5.0%	3,387	27.0%	7,356	58.7%
2010-11	1,180	11.8%	3,890	39.0%	4,285	42.9%
2011-12	974	10.3%	3,671	38.6%	4,112	43.3%
2012-13	998	12.2%	3,118	38.1%	3,480	42.6%
2013-14	1,131	17.9%	2,484	39.2%	1,970	31.1%

Source: Assessor’s Office Data

As these economic changes impact how appraisers conduct appraisals and process assessment appeals, the Office must continuously re-evaluate training opportunities and requirements to offer employees the necessary knowledge and skills to maintain and improve performance.

EVALUATING OFFICE AND APPRAISER PERFORMANCE

Currently, appeals activities represent only a minor component of the appraiser’s annual performance evaluation. Evaluation standards on appeals performance that have been established by the different divisions (Real Property and Business) focus on work volume to ensure the timely resolution of appeals. Recently, the Real Property Division revised these standards to lower the threshold for resolving residential appeals within 12 months – from 90 percent to 70 percent of the pending appeals. Due to the greater complexity and value of commercial appeals, Business Division appraisers are expected to resolve at least 40 percent of appeals within one year.

However, these measures reflect only the Office’s objective in ensuring that appeals are resolved within the two-year period as required by State law. Measures tracking the

actual quality of the appraisals and appraiser productivity have not been developed and are not being used to monitor appraiser performance or productivity of units.

During FY 2009-10 through FY 2013-14, over 16,000 completed appeals resulted in reduced valuations. This represents 37 percent of all appeals filed, including those withdrawn, incomplete and invalid. The overall reduced assessed value of these reductions totaled \$15,181,631,405. The average total reduced assessed value per appraisal over the fiscal years covered by the audit totaled \$945,424. The Office of the Assessor should therefore develop performance standards to enable management and staff to determine whether assessment appeals performance is under-achieving, achieving or exceeding Office and individual appraiser goals. While the development and measurement of assessment appeals performance goals would be challenging given the complexity of certain appeals, it would also enable the Office to develop and offer focused assessment appeals training consistent with Office and staff needs.

CONCLUSION

For the period FY 2009-10 through FY 2013-14, the County's assessed property values were reduced by over \$15 billion as a result of assessment appeals. To ensure appraisers apply consistent standards for handling appeals and consistently produce high quality work, appraisers must be provided sufficient training in the processing of assessment appeals and more rigorous oversight of supervisors responsible to review appraisals for quality control purposes. Further, the Office should develop and monitor performance measures related to quality of assessment appeals appraisals and productivity of organizational units and individual appraisers, in order to achieve assessment appeals performance goals.

RECOMMENDATIONS

The Assessor should:

- 2.1 Ensure that all supervisors provide sufficient oversight of the appeals process, particularly as appeals approach the hearing or stipulation phase, and require Division Chiefs to review all stipulations returned by the County Counsel for correction on a quarterly basis to identify training opportunities for appraisers.
(Priority 3)

- 2.2 Develop and use additional performance goals and measures of appraisal quality and unit/appraiser productivity in evaluating Office and appraiser performance.
(Priority 3)

- 2.3 Provide mandatory training to all appraisers new to assessment appeals, and supplemental mandatory training to appraisers handling assessment appeals, as warranted by new procedures, regulations or market changes. (Priority 3)

SAVINGS, BENEFITS and COSTS

Implementation of the proposed recommendations would improve the quality of assessment appeals appraisals through more rigorous supervisorial review and increased training for appraisal staff. Development and monitoring of performance measures related to Office and appraiser assessment appeals productivity and appraisal quality versus established assessment appeals process goals would facilitate improved Office and staff performance.

3. Board Hearing Agendas

Background

The County of Santa Clara has three assessment appeals boards authorized to hold value hearings. According to the County's adopted Local Rules, scheduling assessment appeals hearings is a Clerk function. The statutes governing assessment appeals mandate uniformity in processing appeal applications and treat the County's three boards as equally qualified to hear all appeal application types. While this section focuses specifically on the assessment appeals boards, the process for scheduling agendas should be consistent across Value and Legal Hearing Officers, as well.

Problem

In practice, the Office of the Assessor and individual appraisers have significant influence over when an appeal will be heard, and by which board, through the development of proposed hearing agendas that are generally accepted by the Clerk's office. This practice has contributed to significant year-over-year differences in the number, type, and value of appeals heard by the County's different Assessment Appeals Boards. Although statutes and State Board of Equalization regulations do not explicitly prohibit establishing assessment appeals boards that are specialized, the Board of Supervisors has not authorized such specialization.

Adverse Effect

The lack of adequate controls on the agenda-setting process, including any formal tracking of the distribution of appeals, raises concerns about the appearance of potential conflicts of interest. Additionally, not having a balanced distribution of appeal types and values amongst Appeals Boards is an inefficient use of available County resources and expertise. Finally, current County practice does not follow the spirit of the statute mandating the setting of hearing agendas as a Clerk function.

Recommendations, Savings and Benefits

Amending current administrative procedures to require the Clerk of the Board to establish assessment appeals board agendas based on receiving a "notice of readiness" from the Office of the Assessor for each appeal would place the Clerk of the Board in full compliance with the California Constitution and the County's Local Rules governing the appeals process, would equalize workload among the three boards, and strengthen the objectivity and transparency of the appeals process.

BACKGROUND

Santa Clara County's Assessment Appeals Boards

Article 13, Section 16 of the California Constitution endows county boards of supervisors with the authority to establish one or more independent assessment appeals boards to resolve disputes between the county assessor and taxpayers over assessed property values.

The County of Santa Clara has three assessment appeals boards that collectively constitute the County's board of equalization. The third board was created in 2010 through the passage of Ordinance No. NS-300.818, in response to the historic increase in assessment appeals applications following the economic recession. The ordinance noted the board would be authorized to determine the "valuation of appealed properties," and that it was needed in order to reduce the risk that a backlog could cause the County to exceed the two-year statute of limitations for hearing appeals.

Statutes Governing Board Hearing Agendas

Article 13, Section 16 of the California Constitution also states that the County's board of supervisors shall "adopt rules of notice and procedures for these boards as may be required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions."

The County's adopted Local Rules, Section 307 (a) states that it is a Clerk of the Board function to set an application for reduced assessment for hearing. Section 307(c) further states that the Clerk shall notify the Assessor of the time and place of the hearing.

ASSESSOR CONTROL OF THE AGENDA CREATION PROCESS

Although scheduling hearings is explicitly a Clerk function, the Office of the Assessor has significant influence and control of when an individual appeal will be heard, and by which board. This conclusion is based on the exhibit below, a sample of the proposed hearing agendas that are prepared by the Office of the Assessor and sent to the Clerk's office for review and final approval. These proposed agendas specify the hearing date. Because the specific dates on which each of the three boards are scheduled to hear cases are known in advance, preparing these proposed agendas allows the Office of the Assessor influence over which appeals board will hear a particular case.

Exhibit 3.1
Email and Proposed Hearing Agendas from Assessor to Clerk

From: [REDACTED] ASR Staff
 To: [REDACTED] COB Staff
 Cc: [REDACTED]
 Subject: Proposed Agenda 12-17-14
 Sent: Mon 10/6/2014 9:16 AM

Message: PROPOSED AGENDA 12-17-14 AGENDA SENT 10-6-14.pdf

Good Morning,

Please see attachment for your review and processing.

Thank you,

[REDACTED]
 Senior Assessment Clerk, Standards
 Office of the Assessor, Lawrence E. Stone
 70 West Hedding Street, 5th Floor East Wing
 San Jose, California 95110

PROPOSED AGENDA 12-17-14 AGENDA SENT 10-6-14.pdf - Adobe Acrobat Pro

File Edit View Window Help

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APPEAL#	BY	AC	ISSUE	DT	APPR	N	RP	BD	LE	APPLIC NAME	DT FILED	W	ST
13.0064	4	PG	RP	4	HO					PHAM TUYET THI TRU	07/10/13	N	AC
13.0106	4	PG	RP	4	THOMAS					HOSPIRA INC GRE FO	07/15/13	N	AC
13.0132	4	PG	RP	4	HO					ROSENDIN ALAMEDA L	07/17/13	N	AC
13.0141	4	PG	RP	4	HO					ROSENDIN ALAMEDA L	07/17/13	N	AC
13.0253	4	PG	RP	4	HO					TRINH HUNG Q	07/25/13	N	AC
13.0268	4	PG	RP	4	THOMAS					HOANG CHRISTINA	07/26/13	N	AC
13.0349	4	PG	RP	4	HO					ROOHPARVAR SHAHRAM	08/01/13	N	AC
13.0353	4	PG	RP	4	GLENDA					ELW COMMERCIAL INV	08/01/13	N	AC
13.0364	4	PG	RP	4	GLENDA					BOWERS PROPERTIES	08/01/13	N	AC
13.0371	4	PG	RP	4	HO					JACK LLC	08/01/13	N	AC
13.0396	P	PG	BD	B	SARABI					HIONIX INC	08/02/13	N	AC
13.0449	4	PG	RP	4	GLENDA					HOHBACH REALTY CO	08/07/13	N	AC
13.0503	1	PG	RPNC	1	MATSUD					KRISHNAPURA SHESHA	08/12/13	N	AC

Source: Emails from Clerk of Board

The Clerk of the Board's office has confirmed that while they may make minor changes to resolve obvious conflicts or inefficiencies (such as consolidating appeals), for the most part they typically follow the Assessor's scheduling preferences. This practice differs from practices observed in other comparable California counties, where hearing agendas are created based upon an Assessor "notice of readiness." Under this scenario

an appeal will be flagged as ready for hearing, but the clerk will handle the specificities of hearing agenda creation, including the final date and appeals board.

Further evidence that the Assessor has significant control over the agenda creation process is provided in an Assessor's office training slide on "Scheduling Appeals." As seen below, this slide clearly acknowledges that agenda creation is under the Assessor's purview, and that appraisers should schedule their appeals equally among all three assessment appeals boards.

Exhibit 3.2
Assessor's Office Training Slide

Scheduling Appeals

- Schedule equally amongst all three boards
- Request scheduling a minimum of 75 days prior to the hearing
- Standards will schedule on a first-come, first-served basis
- If agenda is full before your request is submitted, Standards will redistribute your appeals to next available Board/hearing
- Notices mailed to applicants by COB at least 45 days prior to hearing
- Cases may be removed from agenda without using a continuance if notice has not yet been mailed...check A14 screen

Business Division:
Appeals Unit Supervisor is responsible for assigning appeals to appeal coordinators and recommending a hearing date for all Business Division appeals.

Source: Assessor's Office "Appeals Training" presentation, April 18, 2013

Individual appraisers have also acknowledged that they are encouraged to schedule their appeals equally among all three boards. However, as with the slide above, in practice this is essentially a suggestion. There is no specific policy document or guideline that mandates equal scheduling, nor is any official mechanism in place at

either the Assessor or Clerk to track whether appeals have been equitably distributed.

DISPARITIES IN NUMBER, TYPE, AND VALUE OF APPEALS

In fact, there is clear evidence that the current process for scheduling appeals for hearing leads to disparate workload distribution. Despite the fact that the FY 2013-14 distribution of appeals among the three boards was substantially improved, year-over-year there is wide variation in the number, type, and value of appeals assigned to the different appeals boards. Over the last five fiscal years consistent patterns have emerged that do not appear to be explainable by any natural variation in the scheduling process.

Exhibit 3.3 below shows that over the five-year period starting from FY 2009-10 to FY 2013-14, the County’s three assessment appeals boards have received a total of 37,179 appeal applications. Of this total, approximately 33 percent have been assigned to Board 1; 41 percent with Board 2; and 27 percent with Board 3.

Exhibit 3.3
Appeals Filed by FY and Board

FY	Board 1	Board 2	Board 3	Total
2009-10	4,188	4,864	1,615	10,667
2010-11	2,167	3,604	2,246	8,017
2011-12	2,357	2,849	2,601	7,807
2012-13	1,860	2,287	1,984	6,131
2013-14	1,572	1,548	1,436	4,556
Total Appeals	12,144	15,152	9,882	37,179
% of Total	33%	41%	27%	100%

Source: Assessor’s Office Data

The relatively lower number of appeals scheduled with Board 3 is partially due to the fact that the board was not yet operational during FY 2009-10, and did not start meeting until 2011. However, Board 2 has consistently seen the largest number of total appeals over the five-year period in question. In three of the four years in which three boards have been fully operational, Board 1 has received the fewest appeals to adjudicate. As noted previously, the overall appeal case-load was most balanced between the three boards in FY 2013-14.

There are three primary types of appeals that are considered by the boards: Business (Bus), Real Property Commercial (RP Comm), and Real Property Residential (RP Res). As seen in the table below, RP Comm and RP Res are roughly equal in terms of the overall distribution of appeals, while there are relatively fewer business appeals.

Exhibit 3.4
Total Appeals By Type
FY 2009-10 to FY 2013-14

Appeal Type	No. of Appeals	%
Bus	4,794	13
RP Comm	15,804	43
RP Res	16,581	45
Total	37,179	100%

Source: Assessor's Office Data

A look at the *distribution* of these appeal types reveals significant disparities among the three Boards. As seen in Exhibit 3.5 below, over the period in question, nearly half of all Business appeals were scheduled with Board 1. Meanwhile, a clear plurality of all Real Property Commercial appeals were scheduled with Board 2. Finally, despite having been in existence for a shorter period of time, Board 3 has already seen more Real Property Residential appeals than Board 1.

Exhibit 3.5
Distribution of Appeals Assigned to Hearing Boards By Type of Appeal
FY 2009-10 to FY 2013-14

Appeals Board	Bus		RP Comm		RP Res		Total
	No.	Percent	No.	Percent	No.	Percent	
Board 1	2,283	48%	5,118	32%	4,743	29%	12,144
Board 2	1,666	35%	6,518	41%	6,969	42%	15,153
Board 3	845	18%	4,168	26%	4,869	29%	9,882
Total	4,794	100%	15,804	100%	16,581	100%	37,179

Source: Assessor's Office Data

Looking at this data from another perspective, while business appeals make up 13 percent of all appeals heard by the boards, they comprise 19 percent of the Board 1 caseload compared versus 9 percent of the Board 3 caseload. Meanwhile, Residential appeals comprise 45 percent of all appeals, but comprise 39 percent of the Board 1 caseload versus 49 percent of the Board 3 caseload. In practice this means that comparatively more appeals for single-family residences are scheduled with Board 3.

The differences are more striking when comparing the *value* of appeals, particularly between Boards 1 and 2, which have both been fully operational over the time period in question. The table below presents the total verified county value of all appeals by

board and appeal type, from FY 2009-14.

Exhibit 3.6
Total Verified County Value of all Appeals by Board and Appeal Type
FY 2009-10 to FY 2013-14

	Appeal Type						Total
	Bus		RP Comm		RP Res		
Appeals Board	Value	Percent	Value	Percent	Value	Percent	
Board 1	\$8.8 bil	84%	\$18.1 bil	31%	\$3.2 bil	29%	\$30.2 bil
Board 2	1.2 bil	14%	26.7 bil	46%	4.8 bil	43%	32.7 bil
Board 3	0.4 bil	4%	13.1 bil	23%	3.1 bil	28%	16.6 bil
Total	\$10.5 bil	100%	\$57.9 bil	100%	\$11.1 bil	100%	\$79.5 bil

Source: Assessor’s Office Data. Figures represent verified county value prior to adjustment.

As can be seen, although a roughly equivalent portion of the total \$79.5 billion in County value has been scheduled between Board 1 and Board 2, the composition of that value is vastly different. For example, 84 percent of all business appeal value over the time period in question has been scheduled with Board 1. In practice this means that high-profile, high-value Silicon Valley companies such as Apple, Google, Cisco, EBay, and Hewlett-Packard are generally always scheduled¹ with Board 1.

Meanwhile Board 2 has seen a clear plurality of Real Property Commercial and Real Property Residential value.

ASSESSOR’S OFFICE RESPONSE

The Assessor’s Office offered the following response regarding the current process for scheduling appeals and the observed disparities:

- The Assessor does propose agendas although the Clerk of the Board has final determination over hearing agendas. The Assessor is involved to this extent because the Clerk of the Board does not have visibility into the Assessor staff schedule, or have knowledge of how certain appeals should be grouped². The current system therefore allows for easier coordination.
- The Supervising Appraisal Data Coordinator within Standards currently has the responsibility to make sure that all appeals boards are fully

¹ Historically, Board 1 always heard these appeals. In addition, members of Boards 2 and 3 own stock in Apple, creating a conflict of interest.

² Appeals are grouped by economic unit, which may have multiple appeals associated with a single property owner.

utilized. Within the last two years the Assessor has made a more concerted effort to ensure that cases are better distributed.

- Some of the disparities result from the fact that certain high-value appeals extend for many years. In scheduling related appeals over time, it makes more sense to send them to the same board that heard the original appeal, instead of spending the 2-3 hours necessary to educate a new board on the background of the appeal.

LACK OF EXPLICIT STATUTORY SUPPORT AND NEED FOR ADDITIONAL CONTROLS AND CLARIFICATION

Scheduling Appeals

The state Board of Equalization assessment appeals manual acknowledges that the clerk's office may consider the scheduling preferences of the assessor for administrative convenience and efficiency. Appropriate coordination between the two offices is therefore necessary and even essential.

However, given constitutional mandates regarding uniformity in the processing and decision of appeal applications, as well as clear specificity within the statutes regarding the Clerk's responsibility for setting items for hearing, the Assessor's level of control over the agenda creation process is problematic.

A clear limitation with the current process for scheduling appeals for hearing is that individual appraisers or supervising appraisers who have personal reasons for directing an appeal to or away from a particular board will have the leeway to do so; sufficient controls are not currently in place to prevent such outcomes. Although this practice is not believed to be widespread, individual appraisers did acknowledge during interviews that they did not like working with specific board members, and would massage their caseload accordingly.

Finally, in spite of the suggested practice of equal scheduling amongst the boards and some recent improvement, in reality this has not been observed, especially when considering appeal type and appeal value and not just total number of appeals.

Board Specialization

The observed disparities in the composition of appeals heard by the different appeals boards raise reasonable concerns about the appearance of possible conflicts of interest. Although it is not fully clear why the observed disparities are occurring, the available data does not indicate a random distribution. However, there is no specific provision in the governing statutes for assessment appeals that necessitate or encourage the sort of board "specialization" that has been observed.

The idea of specialized boards was discussed during the process that led to the creation of the third assessment appeals board during FY 2010-11, according to the minutes from a June 7, 2010 meeting that included Assessment Appeals Board members, the Assessor's Office, the Clerk of the Board, and County Counsel. However, no concrete action was taken at that time. Indeed, according to the meeting minutes, "AAB members and staff discussed that directing appeals to a specific AAB may not be legal and may not be practical."

In the eyes of the relevant legislation, ordinances, and statutes, "all boards are created equal". In order to reflect this approach, the Clerk of the Board and the Assessor should follow the scheduling practices observed in other counties, in which the Assessor advises the Clerk when a particular appeal is ready to be heard, and the Clerk then schedules that appeal for one of the three boards, attempting to equalize the number and types of appeals among the three panels.

That said, although there is no specific provision within the statutes encouraging board specialization, it is not expressly prohibited either, and there is little specification regarding how appeals should be assigned, or that they must be scheduled equitably between existing appeals boards. We recommend that if this approach of specialized boards is desired, whereby appeals with certain characteristics will be directed or favored with certain boards, its legality should be reviewed by County Counsel. If it is permissible under current State law, then such an approach should be explicitly described in County rules and ordinances regarding the assessment appeals boards. Such a change will strengthen the objectivity and transparency of the appeals process. The City and County of San Francisco, for example, has two assessment appeals board that have slightly different mandates:

- Board #1 is authorized to hear appeals regardless of value, type, or location.
- Board #2 is authorized to hear all residential property of four units or less, property assessed at less than \$50 million, excluding possessory interests, and applications concerning real property located all or in part within Assessor's Blocks 1 through 876 and 3701 through 3899, inclusive.

The County of Santa Clara may choose to emulate this example and tailor it to the County's needs. Whichever approach is pursued, it is in the County's interest to efficiently use the resources for appeals that are available in three existing assessment appeals boards.

CONCLUSION

The lack of adequate controls on the hearing agenda-setting process, including any tracking of the distribution of appeals, has led to disparate outcomes in the number, type, and value of appeals scheduled at the County's three assessment appeals boards.

Current County practice does not appear to follow California constitutional requirements which mandate "uniformity in the processing and decision of assessment appeals applications", and specifies the setting of hearing agendas as a Clerk of the Board function. Finally, not having an equitable distribution of appeal types and values amongst the different Assessment Appeals Boards is an inefficient use of available County resources.

If the County wishes to formalize the current model, and move to "specialized" assessment appeals boards, this should be deliberated appropriately and then clarified in the assessment appeals statutes, so as to be transparent to County taxpayers.

RECOMMENDATIONS

The Assessor and Clerk of the Board should:

- 3.1 Introduce new controls to ensure relative equity in the number, type, and value of appeals heard by assessment appeals boards, including regular tracking of appeal distribution. (Priority 3)
- 3.2 Adopt a transition plan to transfer primary scheduling functions from the Assessor's Office to the Clerk of the Board. Following the expected introduction of new software with increased technical capabilities in 2016, administrative procedures should be amended to require the Clerk of the Board to establish assessment appeals board agendas based on receipt of a "notice of readiness" from the Office of the Assessor for each appeal. Appeals should then be uniformly distributed among the three hearing boards. This amendment should be submitted to the Board of Supervisors for approval amending the County's Local Rules in the County Ordinance Code. (Priority 3)

Alternatively, if the Board believes this policy should be considered, the Board of Supervisors, Assessor, Clerk of the Board, County Counsel, and Assessment Appeals Board members should:

- 3.3 Evaluate whether the creation of "specialized" assessment appeals boards is a legal, desirable, and workable solution for the County's assessment appeals process. If it is permitted, the Board of Supervisors should determine what form

the system should take and subsequently codify it in the County's statutes and policies. (Priority 3)

SAVINGS, BENEFITS and COSTS

Implementation of recommendations 3.1 through 3.3 would have no fiscal impact on the County, as these are existing or implied requirements for the departments in question. In addition, implementation of these recommendations would remove the appearance of potential conflicts of interests, and create efficiencies through either (1) a more equitable workload distribution across the appeals boards, or (2) specialized boards with officially sanctioned mandates to review only certain appeal types.

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4. Public Information and Hearing Notices

Background

As part of its public information mandate, the County's assessment appeals website provides information on the appeals process, including filing fees, important deadlines, and hearing options, as well as links to relevant County forms and an online application option. The County also sends "Notice[s] of Hearing" to appellants, as required by the County's adopted Local Rules for assessment appeals.

Problem

Publicly available information on the website is poorly organized, difficult to navigate, and contains little useful descriptive information. In addition, when compared to best practices observed among large counties in California, the County of Santa Clara does not provide sufficient opportunities for appellants to learn about the appeals process. Finally, appellant hearing notices lack clarity regarding certain hearing appearance requirements, and do not provide contacts for appellants to contact with questions.

Adverse Effect

Auditors observed many instances of unprepared appellants who did not fully grasp the assessment appeals process and how their hearings would work. We also observed several instances where many appellants did not have the requisite presentation materials as specified in their hearing notices, or where appellants expressed concern over miscommunication with County staff, contributing to confusion and delays.

Recommendations, Savings and Benefits

The Clerk should reorganize assessment appeals website content and links thematically to make them more user-friendly. The Clerk should also update hearing notices to include public contact information (excluding specific employee names) as well as copy requirements for evidence. Finally, the County should evaluate creating public information workshops, modeled on programs in the counties of Los Angeles and Orange. Costs to implement these recommendations are estimated at \$51,000. Further educating residents on the appeals process would limit erroneous or incomplete appeal applications, and reduce the amount of time wasted on no-shows, reinstatements, and copying documents prior to hearings.

BACKGROUND

As part of its public information and electronic postings mandate, the County's assessment appeals website provides information on the appeals process, including filing fees, important deadlines, hearing agendas and schedules, and value hearing options, as well as links to relevant County forms and an online application option.

The County also sends "Notice[s] of Hearing" to appellants, as required by Section 307 of the County's adopted Local Rules for assessment appeals. The notices specify the time and date of the hearing, the date by which appellants must return their appeal response form¹, the number of copies needed for any evidence brought to hearings, and other required information.

The County has made two recent major improvements in these areas: 1) online applications, which has speeded up appeal application processing, and 2) updated appellant hearing notices to provide greater clarity and improved organization.

ASSESSMENT APPEALS WEBSITE

Information on the County's Assessment Appeals website is poorly organized, difficult to navigate, and contains limited descriptive information. First-time appellants in particular are likely to be at a disadvantage as they attempt to learn about the appeal process and prepare for their application² and hearing.

Currently, visitors to the home-page are greeted by a grab-bag of unorganized topic areas, including appeal fees, online applications, value hearing options, technical dates and deadlines for property owners, as well as "Related Links", "Quick Links" and "Attachments." The "Related Links" give little indication of what an appellant might find or learn by clicking on a particular link, and the "Attachments" are not organized according to any useful scheme. The "Attachments" links are primarily titles for the various forms, and don't significantly explain when or why a particular form would be needed. See the below exhibit for examples.

¹ The response form allows appellants to confirm their appearance, withdraw, postpone, or waive.

² Information provided to prospective appellants must focus on explaining what information will be needed to complete the appeal application process. It cannot include legal advice on how to fill out the application.

Exhibit 4.1

The County's Assessment Appeals Website

Home > Clerk of the Board > Assessment Appeals

Assessment Appeals

Welcome to the County of Santa Clara, Clerk of the Board's Assessment Appeals website. Assessment Appeals is an independent function, separate from the Assessor's Office, established to decide disputes on property assessed values between the Assessor's Office and property owners.

Effective 7/2/13 the processing fee for each assessment appeal application is \$40.00. Payment may be submitted by check or money order or credit card - NO CASH. A separate application must be completed and filed for one type of assessment for each parcel of real property or each assessment of personal (unsecured) property for one tax year.

Starting 7/14/14, you can complete and submit your assessment appeal application (Application for Changed Assessment form) online by selecting the **Appeal Online** button below, register for a PIN to electronically sign, pay the \$40.00 processing fee by credit or debit card, and add PDF attachments. The system will assist you in filling out your form accurately and completely. You will receive a payment confirmation page and appeal case number, and you can print your appeal application for your records.

Appeal Online

Value Hearing Officer Option

What is the difference between the Assessment Appeals Board and the Value Hearing Officer?

The Appeals Board is a three-member panel and the hearings have a more formal courtroom atmosphere, while a hearing with the Value Hearing Officer is less formal. The Value Hearing Officer is a real estate professional who hears residential valuation appeals. Having your appeal scheduled before a Value Hearing Officer is considered an expedient and convenient alternative to the more formal Board proceedings, and may provide a faster resolution to your appeal. To choose this option when completing your application, check the **"Yes" box in item #9 on the application**. For more information click on the Value Hearing Officer Proceedings Brochure below.

Important Dates and Deadlines for Property Owners

January 1 - The lien date for the assessment of property on the assessment roll is 12:01 AM, on January 1 of each year.

February 15 - Legal deadline to file timely exemption claims for homeowner, veteran, disabled veteran, cemetery, church, college, and welfare exemptions.

April 1 - Deadline to file Business Property Statements.

April 10 - Last day to pay second installment of secured property taxes without penalty.

July 1 - Assessment Roll delivered to the County Controller.

August 31 - Last day to pay unsecured taxes without penalty.

July 2 - September 15 - Regular Filing Period - Timeframe for filing application appealing the Regular Assessment with the Clerk of the Assessment Appeals Board. Applications may include but are not necessarily limited to Decline in Value, Base Year Value, Personal Property, and Penalty Assessment appeals.

December 10 - Last day to pay first installment of secured property taxes without penalty, and deadline to file a late exemption for homeowners and veterans.

Related Links

- You may complete your assessment appeal application form (Application for Changed Assessment form) online by selecting the **Create/Print Application PDF** button below. The system will assist you in filling out your form accurately and completely. You must print and sign the application, include supporting documents and a processing fee payment of \$40.00 by check or money order payable to County of Santa Clara, and hand-deliver or mail to the Clerk of the Board's office by the applicable deadline. A copy will not be saved online. Keep a copy of your application for your records.

Create/Print Application PDF

- [Appeal Information - California State Board of Equalization](#)
- [California Code of Regulations](#)
- [Property Owner's Guide to Proposition 8](#)

Attachments

- [Application for Changed Assessment form and Information and Instructions for 2013-14 and 2014-15 \(Print Version\)](#)
NOTE: Appeals for the 2014-15 Regular Filing Period may ONLY be filed starting July 2, 2014.
- [Value Hearing Officer Proceedings brochure](#)
- [Frequently Asked Questions Regarding the Assessment Appeals Process](#)
- [Residential Property Assessment Appeals Booklet \(publication 30\)](#)
- [Agent/Attorney Authorization Form - For use with initial filing of appeal](#)
- [Agent/Attorney Authorization/Revocation/Substitution Form - For use after initial filing of appeal](#)
- [Appeal Response Form, Withdrawal/Continuance/Waiver/Request for Hearing \(Fill-in\)](#)
- [Waiver Form](#)
- [Request for Exchange of Information Form \(Fill-in\) and Revenue and Taxation Code](#)
- [Change of Address Request Form \(Fill-in\)](#)
- [Reinstatement Request Form \(Fill-in\)](#)

> Report a problem with this page Back to top

QUICK LINKS

- [Value Hearing Officer Brochure](#)
- [Frequently Asked Questions \(FAQs\)](#)
- [Glossary of Terms](#)
- [Videos - Your Assessment Appeals](#)
- [Property Owner's Guide to Proposition 8](#)
- [Assessment Appeals Board](#)
- [Hearing Agendas](#)
- [Schedule of Hearings](#)

Source: Santa Clara County Assessment Appeals website

Information on the Assessment Appeals home-page should instead be organized in a more intuitive, thematic manner, closely tracking the appeal process as it might be experienced by an appellant. Contrast the images presented above with the following screen shot from the County of Los Angeles Assessment Appeals site.

Exhibit 4.2 Los Angeles County's Assessment Appeals Website

HOME | BOARD MEETING | SERVICES | FORMS | FAQ | ABOUT US | Search...

Public Education Program

The program features various seminars on the assessment appeal process with topics covering taxpayer appeal rights, when and how to file an application for reduction in assessment, and how to prepare for a hearing

You are here > Services > [Assessment Appeals](#) < Back

AAB Links

- ASSESSMENT APPEALS INFORMATION
- FILING PERIODS
- BOARD MEMBERS & HEARING OFFICERS
- HEARING LOCATIONS
- PUBLIC EDUCATION PROGRAM
- TAX AGENT REGISTRATION
- FREQUENTLY ASKED QUESTIONS
- CONTACT US

Our Mission Statement

Acting on behalf of the Board of Supervisors (Board of Equalization), in a judicial capacity, and acting on the basis of relevant evidence submitted at the hearing, make a fair, impartial decision within two years of filing, on all property assessment disputes between taxpayers and the Assessor.

An impartial decision is one that is based on the facts presented at the hearing, and not on personal knowledge of an individual Board Member; and one that does not for any reason give special favor to the Assessor or the taxpayer.

[Click here to file an Application for Changed Assessment Online](#)

Supported Browsers

**** Effective July 1, 2014 any application determined to be invalid will not be processed by the Assessment Appeals Board. A Notification of Invalid Filing will be sent for any application determined to be invalid and will require a request for a Validity Hearing to be filed by the applicant. The failure to file a timely request for a Validity Hearing will constitute a waiver of the applicant's right to such hearing.**

Mail / Walk in Forms

- [Application for Changed Assessment AAB-100 \(Fillable - Print & Mail\)](#)
- [Economic Unit Form AAB-101 \(Fillable - Print & Mail\)](#)
- [Agent Authorization or Substitution](#)
- [Postpone Hearing Request](#)
- [Waiver and Agreement Form](#)
- [Withdrawal Request](#)
- [Change Address/Contact Information](#)

Public Education Program

- [Public Education Program Seminar Slides](#)
Click on the "Public Education Program" link for current public seminar schedule.
- [Información del Programa Publico Seminarios \(en Español\)](#)

Related Departments

- [LA County Portal](#)
- [LA County Property Tax Portal](#)
- [Auditor Controller/Property Tax](#)
- [Office of the Assessor](#)
- [Board of Equalization](#)
- [Treasurer and Tax Collector](#)

Preparing for Your Assessment Appeal

- ['Your AssessmentAppeal' Video](#)
- [Publication 30, Residential Property Assessment Appeals](#)
- [Assessment Appeals Board Rules](#)
- [How to Prepare for your Assessment Appeals Hearing](#)
- [Como repararse para su Audiencia de Peticiones de Evaluación \(en Español\)](#)

Source: Los Angeles County Assessment Appeals Website

As can be seen, the layout used by the County of Los Angeles offers basic information about the appeal process, links to the online application, a separate section on appeal preparation, links to a public education program, and a list of links identified by topic areas. Additionally, attachments are more appropriately labeled as "Forms", and are presented without jargon and unnecessary words. Appellants are provided with visual and contextual cues depending on where they are in the application process to guide them to certain areas of the page.

Links to resources for Spanish-language appellants are also featured in the bottom-right section of the front-page. (The following section of this report, “Language Access and Limited English Proficient Appellants” offers more specific recommendations for Limited English Proficient appellants.)

Auditors observed many instances at hearings of unprepared appellants who did not fully understand the assessment appeals process, or what the expectations were for the assessment appeals hearings. For example:

- A significant number of appellants showed up for their assessment appeals hearing without having any evidence or presentation materials ready, especially comparable properties. These appellants had not understood that the Board can only make decisions based upon presented evidence and that by not having any materials ready they were essentially forfeiting their appeal.
- Alternatively, there were instances when appellants showed up with the requisite materials to present their case; however, their items were not scheduled for actual value hearings that day and the appellants merely needed to show up or provide specific information so the item could be continued to a later date. The appellants had not understood the exact status of their own application, and how that in turn determined the nature of hearing activity.

In addition to being an appropriate service provided by the County, improved public information on the website could help facilitate more complete appeal applications and better prepared appellants at hearings, thereby saving the County time and resources. A reorganization and improvement of the County’s website, modeled on the County of Los Angeles assessment appeals website, would require a modest amount of staff time. It is estimated such a project would require 40 hours of work for a Senior Business Information Technology Consultant at the Information Systems Department, for an approximate total of \$50,000. According to the Information Systems Department, this estimate reflects 480 hours of work. Additional costs might also be incurred through the provision of information technology services.

PUBLIC EDUCATION

Santa Clara County does not provide sufficient educational or training opportunities for appellants when compared to best practices observed among large counties in California. Resources are limited to the County website and printed brochures available

at the Clerk's or Assessor's office. By contrast, the County of Los Angeles holds public information seminars as part of an official Assessment Appeals Public Education Program. This Public Education program is prominently displayed on the Los Angeles County Assessment Appeals website homepage. Seminars are held monthly at locations throughout the County and cover various topics, as seen in the exhibit below.

Exhibit 4.3
Public Education Program in Los Angeles County

[Public Education Program](#)

[< Back](#)

Current Seminar Schedule

The Assessment Appeals Public Education Program was developed to help taxpayers better understand the assessment appeals process in Los Angeles County. This program features seminars and brochures on the assessment appeals process. All Seminars are free and approximately 90 minutes in length. For recorded information on the current seminar schedule call (213) 974-4240.

WHAT the Seminar Covers

Taxpayers appeal rights. When and how to file an application for reduction in assessment. How to prepare for a hearing, admissible and inadmissible evidence, what will happen at the hearing and what to expect after the hearing.

WHO Should Attend

Homeowners who are interested in learning about the assessment appeals process are welcome including anyone who has already filed an application with the Assessment Appeals Board.

WHEN and WHERE the Seminars are Held

Seminars will be conducted year-round in various locations throughout the county.

Lancaster

Lancaster Public Library
601 W Lancaster Blvd - Lancaster, CA 93534
Wednesday, March 4, 2015 at 10:00 a.m.
Free Parking

[\[Get directions\]](#)

El Monte

Jack Crippen Senior Center - Crafts Room
3120 N. Tyler Avenue - El Monte, CA 91731
Thursday, February 19, 2015 at 10:00 a.m.
Room Capacity is 45 people
Free Parking

[\[Get directions\]](#)

Glendale

Glendale Adult Recreation Center
201 E. Colorado St. - Glendale, CA 91205
Wednesday, December 3, 2014 at 10:00 a.m.
Recreation Center will validate 3 hrs of free parking
At the corner of Maryland & Harvard.

[\[Get directions\]](#)

Lakewood

Angela M. Iacoboni Library
4990 Clark Avenue - Lakewood, CA 90712
Wednesday, April 15, 2015 at 10:00 a.m.
Room Capacity is 75 people

[\[Get directions\]](#)

Lennox

Lennox Library
4359 Lennox Blvd. - Lennox, CA 90304
Tuesday, January 20, 2015 at 11:00 a.m.
Free Parking

[\[Get directions\]](#)

Encino

Encino Community Center
4935 Balboa Blvd - Encino, CA 91316
Wednesday, May 20, 2015 at 10:00 a.m.
Free parking

[\[Get directions\]](#)

Accommodation for Persons with Disabilities

American Sign Language (ASL) Interpreters and Spanish Language. Translation are available with at least three business days' notice before the seminar date. Please telephone (213) 974-7953 (voice) or 1(800) 735-2922 (TDD), from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Spanish language translation and assistive listening devices are available upon request by calling the above numbers.

Source: Los Angeles County Assessment Appeals Website

The County of Orange holds public workshops four times a year as part of the Clerk of the Board's outreach program, and covers similar topics as Los Angeles. Both Orange and Los Angeles County websites provide access to the PowerPoint presentation used at the workshops which gives an overview of the assessment appeals process. See the below exhibit for additional details on the workshops, as well as major topics covered in the Clerk's presentation.

Exhibit 4.4
Orange County Public Outreach and Clerk Presentation

Orange County Clerk of the Board of Supervisors
Assessment Appeals Division

Workshop

"How to Prepare for Your Assessment Appeal Hearing"

PLEASE NOTE
Attendance is not mandatory but highly recommended.
There is ample seating but you will be turned away once maximum seating capacity is reached.
We apologize in advance for any inconvenience.

This workshop is part of the Clerk of the Board's outreach program and will provide you with valuable information in preparing for your assessment appeal application hearing. Therefore, we invite and encourage you to attend one of the workshops listed below. We look forward to meeting you and answering your questions. For questions concerning any of the workshops, please call the Orange County Assessment Appeals Division staff at (714) 834-2331, ext. 1. For more information and presentation material, go to <http://ocgov.com/gov/cob/apa/workshops>.

<p>March 25, 2015 6:00 p.m. - 7:30 p.m. Lakeview Senior Center 20 Lake Road Irvine, CA 92604 (714) 834-2331, ext. 1 For directions go to www.cityofirvine.org/maps/popups/lakeview.htm</p>	<p>May 27, 2015 6:00 p.m. - 7:30 p.m. Lakeview Senior Center 20 Lake Road Irvine, CA 92604 (714) 834-2331, ext. 1 For directions go to www.cityofirvine.org/maps/popups/lakeview.htm</p>
<p>July 22, 2015 6:00 p.m. - 7:30 p.m. Board of Supervisors Meeting Room 333 West Santa Ana Blvd. Santa Ana, CA 92702 (714) 834-2331, ext. 1 Click HERE for directions.</p>	<p>September 23, 2015 6:00 p.m. - 7:30 p.m. Board of Supervisors Meeting Room 333 West Santa Ana Blvd. Santa Ana, CA 92702 (714) 834-2331, ext. 1 Click HERE for directions.</p>

- Introductions
- Property Tax Event Timeline
- Definitions
- Organizational Structure
- The Process
- 90 Day Rule
- Community Outreach Efforts/Literature
- Questions and Answers

Source: Orange County Assessment Appeals Website and Training Presentation

In addition to being good practice and an appropriate service to make available to County taxpayers, having public seminars and training materials could improve appellants' understanding of the assessment appeals process, especially the nuances and complexities of standards of evidence. Implementing seminars and trainings would result in modest costs to the County. For example, it is estimated that public information seminars held quarterly would require 20 hours of work for the Division Manager, at a total cost of approximately \$1,000. The County could also incorporate a video training option, made available to prospective applicants on the website, for a similar cost. Overall, improved public information will contribute to less confusion and

increased efficiencies at hearings, which will result in savings for the County that will offset the identified costs.

NOTICE OF HEARINGS

As previously noted, the County recently improved its hearing notices. As seen in the below exhibit, prior hearing notices were filled with jargon and difficult to follow. Information was not organized by topic area and actions required of appellants were not appropriately highlighted.

Exhibit 4.5
Old County Hearing Notice

COUNTY OF SANTA CLARA ASSESSMENT APPEALS BOARD
COUNTY GOVERNMENT CENTER, EAST WING, 10th FLOOR
70 WEST HEDDING STREET, SAN JOSE, CA 95110-1771

DECEMBER 28, 2011

DECEMBER 28, 2011 COUNTY OF SANTA CLARA ASSESSMENT APPEALS HEARING

Please bring six (6) extra copies of each document which you plan to submit as evidence. One (1) copy of a photograph is sufficient, but must be retained by the Clerk of the Board for permanent records retention.

The Assessor's representative may introduce information to substantiate the value of the property through the use of comparable sales data, the capitalization of income, and/or replacement cost data. Section 402.5 of the Revenue and Taxation Code states that when valuing a property by comparison with sales of other properties the Board shall consider only those sales, which in its judgment are sufficiently near in time to the valuation date, and are sufficiently alike in respect to building size, lot size, location, view, use, and other amenities, to the property being valued.

Your hearing on Application Number 10.7132 before the Assessment Appeals Board is scheduled for:

WEDNESDAY, FEBRUARY 22, 2012, AT 9:00 A.M. ROOM 157

on the **FIRST FLOOR** at the above address. If you fail to appear the appeal may be denied for lack of appearance.

Section 402.5 of the Revenue and Taxation Code does not allow the Assessment Appeals Board to consider comparable sales that are more than 90 days after the lien date. For example: if an Application is appealing the 2009/2010 Regular Roll (January 1, 2009 lien date), the comparable sales cannot be dated after April 1, 2009.

Important: You must sign, date, and return the enclosed Appeal Response Form. If you come to the hearing and your completed form has not been either hand-delivered by 5:00 p.m., or faxed, or postmarked on or before JANUARY 28, 2012, the hearing will be a non-value hearing limited to determining a future date to present your case.

The law presumes the Assessor's findings are correct in all cases except escape assessments, and owner-occupied single family residences, in which the applicant has supplied the Assessor with necessary information and access to the property. Therefore, in all other appeals the Applicant has the burden of presenting a preponderance of evidence showing the Assessor's determination of full cash value is incorrect.

If you wish to have your case continued (postponed) from the above scheduled date, your written request may be indicated on the enclosed Appeal Response Form. Only one request by mail is allowed. Any further continuances must be requested by appearance before the Assessment Appeals Board and will only be granted at the discretion of the Board.

Request for information (Rule 305.1 of the Administrative Code) provides for exchange of information between the applicant and the Assessor prior to thirty (30) days before the hearing, and related matters. The request to exchange information must contain information which will be introduced in support of that opinion. Copies of Rule 305.1 are available from the Deputy Clerk upon request.

Pursuant to Section 1610.8 of the Revenue and Taxation Code, and Rule 307(a) of Title 18 of the California Administrative Code, the Board is required to find the full cash value of the property from the evidence presented at the hearing. This finding may exceed the full cash value on which the assessment was based with the result that the assessment may be raised rather than lowered.

If you wish to seek judicial review of the Board's decision, written Findings of Fact by the attorney for the Board must be requested before the hearing. The cost is \$400.00 per appeal, payable no later than the conclusion of the evidence, plus the balance of costs incurred by the attorney for the Board, payable at a later date upon request. No court reporter will be provided at this hearing, but may be requested thirty (30) days in advance of the scheduled hearing date (at applicant's expense) should a transcript of the proceeding be required.

If the Assessor proposes to introduce evidence to support a higher assessed value than is currently on the roll, the Assessor must comply with Revenue and Taxation Code section 1604.9 and Property Tax Rule 313 subdivision (f). Only then may such evidence be introduced at the hearing.

Deputy Clerk
Assessment Appeals Board

PHONE: (408) 299-5088 FAX: (408) 298-8460

Rev. 2/8/11

Page 1 of 2

Source: Assessment Appeals Sample File Review

The County's latest version of the hearing notice, as seen in the exhibit below, now clearly specifies the date, time, and location of the hearing, highlights required appellant actions, and organizes relevant information by topic area.

Exhibit 4.6
Current County Hearing Notice

COUNTY OF SANTA CLARA ASSESSMENT APPEALS BOARD
COUNTY GOVERNMENT CENTER, EAST WING, 10th FLOOR
70 WEST HEDDING STREET, SAN JOSE, CA 95110-1771
(408) 299-5088, Fax (408) 298-8460, AssessmentAppeals@cob.sccgov.org

AUGUST 8, 2014 COUNTY OF SANTA CLARA ASSESSMENT APPEALS HEARING

THIS DOCUMENT CONTAINS IMPORTANT INFORMATION ABOUT YOUR APPEAL AND SHOULD BE READ IN ITS ENTIRETY.

Your hearing on Application Number 14.G003 before the Assessment Appeals Board is scheduled for:

Date: WEDNESDAY, OCTOBER 22, 2014
Time: 9:00 A.M.
Location: 70 West Hedding St., San Jose, Isaac Newton Senter Auditorium (on the FIRST FLOOR)

Due to the length of the agenda, hearings may run into the late afternoon. Please plan your schedule accordingly.

REQUIRED:
You must sign, date, and timely return the enclosed Appeal Response Form. Your completed Appeal Response Form must be hand-delivered by 5:00 P.M. on SEPTEMBER 22, 2014 or faxed or postmarked on or before SEPTEMBER 22, 2014. If you come to the hearing without having returned your completed form by the time set forth above, the hearing will be a non-value hearing limited to determining a future date to present your case. If you fail to appear, the appeal may be denied for lack of appearance.

POSTPONEMENT INFORMATION:
If you wish to have your case postponed from the above-scheduled date, you may make such a request on the enclosed Appeal Response form.

Written request for a first postponement must be made at least 21 days in advance of the scheduled hearing. Any request for a first postponement that is made at least 21 days before the scheduled hearing date will be granted as long as that request has been made more than 120 days prior to the expiration of the two-year limitation period.

If the applicant's first request for a postponement is made within 120 days of the expiration of the two year limitation period, then postponement will only be granted if applicant executes a written agreement to extend and toll indefinitely the two-year period.

Any party's second or subsequent request for a postponement must be in writing, must show good cause for the postponement, and must be received by the Deputy Clerk no later than 4:00 P.M. at least three business days in advance of the hearing. If both sides agree to that request for postponement, this shall be deemed to constitute good cause and the postponement will be granted but will result in extending and tolling indefinitely the two-year limitation period. If a party objects to such a request for postponement, the matter will be set for a hearing before the Assessment Appeals Board or Hearing Officer to determine whether good cause for a postponement exists.

HEARING PREPARATION:
Please bring six (6) extra copies of each document that you plan to submit as evidence. If you need an interpreter, please bring one with you to the hearing. The State Board of Equalization guide for residential property value appeals is available at <http://www.boe.ca.gov/proptaxes/pdf/pub30.pdf>.

Rule 305.1 EXCHANGES OF INFORMATION:
Revenue and Taxation Code section 1606 and California Property Tax Rule 305.1 provide a mechanism for exchange of information between the applicant and the Assessor prior to thirty (30) days before the hearing. The party initiating the request for exchange of information must provide valuation information to the other party at the time the request for an exchange of information is initiated. A copy of Rule 305.1 is available upon request from the Deputy Clerk at (408) 299-5088 or at <http://www.sccgov.org/assessmentappeals>

OTHER INFORMATION ABOUT PROPERTY TAX APPEALS:
Subject to certain exceptions set by law, it is presumed that the Assessor's duties were properly performed. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has otherwise not been correctly assessed.

There are five instances in which the burden of proof shifts to the Assessor and the Assessor must affirmatively establish by a preponderance of evidence the correctness of his or her opinion of value or other assessment action: penalty assessments; appeals involving the value of owner-occupied single family dwellings in which the applicant has supplied the Assessor with all information as required by law; escape assessments for which the applicant has supplied the Assessor with all information as required by law, provided however, that the escape assessment did not result from the taxpayer's failure to file with the Assessor a change in ownership statement, business property statement or permit for new construction; non-enrollment of purchase price provided that the applicant has filed a timely change in ownership statement; and when the Assessor intends to request a higher assessed value than is on the roll.

Source: Assessment Appeals Sample File Review

Additional opportunities exist to simplify the language for appellants. Some recommendations follow.

Designated Public Contact

Hearing notices, as the primary official communication received by all appellants, should clearly state who appellants should contact for typical questions, whether an office specialist, Clerk, Senior Clerk, or appraiser. While this should not include specific employee names, it should include the appropriate contact position, such as the Assessment Appeals Clerk.

Auditors witnessed numerous exchanges where appellants expressed concerns over how communication with County staff was handled, specifically knowing who the proper source was to answer a particular question. For example, appellants may have discussed pertinent appeal information with the Assessor, but not the Clerk, and vice-

versa. Since the roles of these two departments in the hearing process are distinct, contacting the right one with a particular question is crucial in getting an accurate answer. Appellant confusion contributed to miscommunications and other issues at hearings, including missed attendance, which then required subsequent Board intervention if the appellant requested reinstatement.

Presentation Materials Required at Value Hearings

Auditors also observed several instances where large numbers of appellants did not have the requisite number of copies of their documentary evidence as hearings were called to order. This happens often enough that County staff will announce at the beginning of a hearing that unprepared appellants should leave the hearing room and go to the 10th floor of the County Government Center to make copies at the Clerk's office for a nominal fee. Counsel would also clarify that resident appeals would not be heard unless appellants had sufficient copies of their evidence to provide the Board. This copying issue contributes to delays in having items heard in a timely manner, requires Board members to hear agenda items non-sequentially, and creates an air of confusion in the hearing room.

Currently, copy requirements are noted on the second page of the hearing notice, under the topic of "Hearing Preparation". Instead, these requirements should be specified on the first page under the "Required" heading, and the notice should clearly state that evidence will not be accepted without the required number of copies.

Implementation of the recommended improvements to hearing notices would result in no costs to the County, as these are existing responsibilities and functions of the Division.

CONCLUSION

Not having adequate publicly available information and clear notices of hearings leads to unnecessary confusion at the hearings and unprepared appellants, which wastes county time and resources. Improved service areas as described in this section could help educate residents on the process, limit erroneous or incomplete appeal applications, and reduce the amount of time wasted on no-shows, reinstatements, and copying appellants' evidence.

RECOMMENDATIONS

The Clerk of the Board should:

- 4.1 Reorganize assessment appeals website content and links thematically, and add the appropriate level of jargon-free descriptive information for relevant topics to make for a more user-friendly experience. The Los Angeles County website can provide a model for a front-page navigation site. The site should seek to track the assessment appeals process as it would appear to an appellant as closely as possible. (Priority 3)
- 4.2 Evaluate the creation of public information seminars or workshops, modeled on the counties of Los Angeles and Orange. These events could be incorporated into existing Clerk of the Board responsibilities, as observed in comparable California counties. Alternatively, the Clerk of the Board should evaluate the production of instructional videos, posted on the website. (Priority 3)
- 4.3 Update Notice of Hearings to include designated public contacts, identified by position title only, as well as copy requirements for evidence on the first page of the notice, under "Required". (Priority 3)

SAVINGS, BENEFITS and COSTS

Recommendation 4.1 will require a modest amount of staff time to reorganize and revamp the County's assessment appeals website. It is estimated this project would require 40 hours of work for a Senior Business Information Technology Consultant at the Information Systems Department, for an approximate total of \$50,000. Additional costs might also be incurred through the provision of information technology services. Implementation of recommendation 4.2 would also result in modest costs to the County. For example, it is estimated that public information seminars held quarterly would require 20 hours of work for the Division Manager, at a total cost of approximately \$1,000. The estimated cost of producing an instructional video would be the same. Overall, improved public information will contribute to less confusion and increased efficiencies at hearings, which will result in savings for the County that will offset the identified costs. Implementation of recommendation 4.3 would result in no costs to the County, as these are existing responsibilities and functions of the division.

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5. Language Access and Limited English Proficient (LEP) Appellants

Background

There are approximately 332,000 residents over the age of 18 in the County of Santa Clara who are classified as Limited English Proficient (LEP). Many of these residents are homeowners, some of whom apply for changed assessment with the County. There was no mandate that the County provide language access services for assessment appeals during the course of this audit. However, the County did approve "Language Access Guidelines and Procedures" on March 24, 2015.

Problem

During observations of Assessment Appeals hearings, auditors witnessed several proceedings that were hampered by language barriers. Further, the County's assessment appeals website does not clearly direct LEP appellants to translated materials available from the State Board of Equalization. Also, although both the Office of the Assessor and the Clerk of the Board had generally recommended practices for dealing with LEP appellants, both offices lacked documented procedures. Additionally, the assistance was limited in scope, not clarified on public County documents, and less than what was provided in peer counties. Finally, there is no mechanism for County staff to track LEP interactions or applications, to determine the need for services.

Adverse Effect

At hearings limited-English-proficient residents appeared confused about the nature and purpose of the hearing and did not appear to understand standards for evidence or the hearing officers' authority and jurisdiction. It is unclear whether recommended practices are being administered consistently, and there are concerns over whether taxpayers have equal access to services and equal opportunity to participate in the assessment appeals process. Finally, the extended confusion at hearings is wasting County and appellant time and resources.

Recommendations, Savings and Benefits

The Clerk should update the County's website and assessment appeal applications to clarify language access policies, and clearly state where additional resources are available. Finally, the assessment appeal application should be updated to include a field that will track whether or not appellants are LEP, so additional data can be gathered for future evaluation. Implementation of these recommendations will result in costs to the County of approximately \$500.

BACKGROUND

County of Santa Clara’s Limited English Proficient Population

According to the American Community Survey’s 2009-2013 estimates from the US Census, the County of Santa Clara County, with a population of 1,688,748 over the age of 5, is estimated to have approximately 21.3 percent of residents, or nearly 360,000 individuals, that speak English less than “very well.”

As shown in the exhibit below, there are significant populations of Asian and Pacific Island, Spanish, and Indo-European language speakers age 18 or older in the County.

Exhibit 5.1
Total LEP Individuals over the age of 18, by Language

Asian and Pacific Island languages	170,346	51%
Spanish or Spanish Creole	125,268	38%
Other Indo-European languages	30,816	9%
Other languages	5,232	2%
Total	331,662	100%

Source: American Community Survey 2009-2013 estimates, US Census Data

The American Community Survey also gathers data on Limited English Proficiency at the household level. According to the Survey, there is no household member older than 14 who speaks English only or speaks English “very well” in approximately 11.4 percent of all households in the County, including more than 20 percent of households that speak primarily Spanish or Asian-Pacific Island languages. See the exhibit below for additional details.

Exhibit 5.2
Households Where No One Over 14 Speaks English Only
Or Speaks English Very Well

	Estimate
All County households	11.4%
Households speaking --	
Spanish	21.1%
Other Indo-European languages	11.5%
Asian and Pacific Island languages	27.2%
Other languages	14.8%

Source: American Community Survey 2009-2013 estimates, US Census Data

Relevant Language Access Statutes

Both federal and State law have affirmed the right of LEP residents to utilize and receive government services, including Title VI of the 1964 federal Civil Rights Act, presidential Executive Order 13166¹, and the California Dymally-Alatorre Bilingual Services Act². However, for local functions such as assessment appeals that do not receive direct federal or State funding, local authorities have significant discretion to implement language access policies as they see fit based on needs and available resources.

During the course of this audit, the County of Santa Clara did not mandate language access services or have any official language access policies for assessment appeals. However, the County's Mission Statement did declare that "[w]e create an inclusive environment that supports the diversity of our community. We take action to communicate openly and frequently, encouraging public participation."

On March 24, 2015, the County adopted "Language Access Guidelines and Procedures" via the approval of Board of Supervisors' Policy Manual Section 3.58. The policy is "an expression of an organizational value and commitment to offering language interpretation services to individuals who best communicate in a language other than English". It provides guidelines on use of dedicated interpretation staff, use of contracted services, use of bilingual staff, use of a Countywide contract for telephonic interpretation, guidelines for written communications, the provision of interpretation services at Board and committee meetings, and signage and wayfinding. County staff are currently being trained on implementing the policy.

County Practice for Assessment Appeals During Audit Scope Period

Although not mandated to provide language access during the course of this audit, County staff interacted with LEP appellants on a regular basis and had formulated some basic general practices.

¹ "Improving Access to Services for Persons with Limited English Proficiency" was signed in 2000, requiring federal agencies to develop guidance for federal funding recipients in order to be in compliance with Title VI. This order has informed most subsequent state and local efforts in the area of language access. Other divisions in Santa Clara County have recently adopted official language access plans in order to comply with Title VI requirements, including the District Attorney's Office, Probation Department, and County Police Departments.

² The California Legislature passed the Dymally-Alatorre Bilingual Services Act in 1973, requiring state and local agencies serving a "substantial number of non-English speaking people," to employ a "sufficient number of qualified bilingual staff in public contact positions" and to translate documents explaining available services into clients' languages.

At the Clerk of the Board's office, for example:

- Depending on the language and staff availability, certified bilingual employees would be made available to provide translation services over the phone or in person.
- LEP appellants would be advised that they need to bring their own translators to hearings, and be referred to the State Board of Equalization website for translated materials.

At the Assessor's office:

- Depending on the language and staff availability, certified bilingual employees would be made available to provide translation services over the phone or in person.
- Translated brochures from the State were available at public information desks in the County building.

In 2010, County staff discussed the possibility of appointing a board member with bilingual skills during deliberations on the creation of a third assessment appeals board. Board members and staff discussed whether a bilingual appointee might provide needed assistance to appellants, and subsequently considered concerns about having a Board member serve as an interpreter during a hearing. No subsequent action was taken on the matter.

Other County Practices

Individual counties and cities in California have adopted their own solutions for assessment appeals-related translation and interpretation access. For example:

- The City and County of San Francisco has a county-wide Language Access Ordinance in effect since 2001 that mandates "equal access to city services to all San Franciscans, including those with limited proficiency in English". The San Francisco Assessment Appeals website includes a "Google Translate" option so residents can translate individual webpages into their desired language, and includes additional information on Language Access under the "Contact" section, indicating in multiple languages that interpreters must be requested 48 hours in advance of a hearing.
- As noted in the previous section ("Public Information and Hearing Notices"), the County of Los Angeles offers key Spanish-language materials on its front-page website, and also makes translation services available for its Public Education seminars.
- The County of Alameda has a Language Line telephonic interpretation service

that is available during the assessment appeals application process, as well as interpreters available during hearings.

- The County of San Diego reports having bilingual staff available to assist applicants during the application process.

Given the County's sizeable Limited English Proficiency population, these solutions should be considered best practices that the County of Santa Clara should follow to help address the issues identified and observed below. The County's recently adopted language access policy will help in many of these areas.

LANGUAGE BARRIERS AT ASSESSMENT APPEALS HEARINGS

During October 2014 the Management Auditor attended hearings for all three Assessment Appeals boards and one Value Hearing Officer. During each of these hearings, auditors observed at least one, and sometimes several, instances where proceedings were hampered by language barriers between LEP appellants, County staff, and board members. Residents clearly did not understand the nature of the hearing process, the purpose of the hearing, the information and evidence hearing officers needed to make value determinations, or the nature of the hearing officers' authority and jurisdiction.

In some of these cases appellants brought along a translator, as they would have been advised to do by the Clerk. However, in only one instance was the translator able to fully assist in discussing the substance of the appeal (discussed below). Typically the translators were friends, spouses, children, or other family members who either were not completely fluent in English themselves, or were unfamiliar with the nuances of appeals terminology and therefore unable to provide meaningful translation services.

These interactions with LEP appellants were among the most time consuming appeals at the observed hearings, sometimes lasting up to 45 minutes for a single appeal, even though the issues themselves were generally straightforward. Board members should be commended for their patience as they attempted to walk appellants through the appeal and explain available options. Given the language barriers, however, it was clear that in many instances no amount of explanation would suffice in the absence of basic comprehension. Examples of the problems observed follow below.

Lack of Comprehension on Appeals Process and Terminology

In one instance, an appellant was given an option to pursue a legal hearing instead of a value hearing (the differences between the two are described in the Introduction to this

report), but the appellant did not seem to understand what the legal hearing would entail, and was nervous and concerned about the downside risks of a “legal” option. Board members clearly believed pursuit of a legal hearing was in the appellant’s best interest, and in fact asked about or suggested the legal hearing option 10 different times over the course of the hearing. However, the appellant never made any affirmative statement that they understood the consequences of not pursuing the legal option. At a different point the appellant asked a question, which caused three different individuals from the County to then discuss the meaning of the question. After much back-and-forth the appellant declined, and simply stated “I don’t want to get more hearings.” After determining that the value hearing would proceed, the appellant had no evidence to submit to the board.

Standards for Evidence and Nature of Board Authority

In another instance, a non-English appellant repeatedly asked through a translator if the Board could “please reduce” the assessment “a little bit”. Neither the appellant, nor their elderly, Limited English translator grasped that they needed to provide market data and other evidence in order to rebut the Assessor’s presentation, or understood the nature of the Board’s authority, which the Chair tried to reiterate several times. As discussed in Section 4, this appears to be not just a language comprehension problem, but a general failure of the County to provide easily accessible information to appellants that describes what an assessment appeal entails, and what evidence they need to provide to prove their cases.

Due Process Concerns

Another issue surrounded whether or not an appeal could be considered after the deadline for reinstatement had passed. The notice for hearing had erroneously been sent to the LEP appellant instead of the authorized agent due to a miscommunication between the agent and County staff (the culpability for this error was murky). The debate then concerned whether or not the LEP appellant could have been reasonably understood to have received and understood the hearing notice, since she cannot read or speak English. The agent, who was also a lawyer, objected to the presumption that the notice had been received, and stated that the County’s desire to invalidate the application based upon the elapsed time-frame for reinstatement constituted a violation of due process. This application was eventually denied due to the Board’s lack of jurisdiction to reinstate an untimely request. Although in purely technical terms the County was likely on legally defensible grounds in this instance, if scenarios such as

this were to continue in the future there is risk that an aggrieved appellant or civil rights attorney might find sufficient ground to file a claim against the County.

INADEQUATE INFORMATION ON COUNTY WEBSITE AND DOCUMENTS

Publicly available information on the County's assessment appeals website does not clearly direct LEP appellants to translated materials available from the State, nor is there clarification on available County assistance. For example,

- Publication 30 ("Residential Property Assessment Appeals") is available on the State Board of Equalization (BOE) website in multiple languages. However, there is no notification on County links to this page specifying that it is the location of translated materials.
- There is no posted information on language access on the website, including (1) clarification on services the County is currently able to provide as noted above, and (2) generally recommended courses of action for LEP residents, including referral to the State BOE or a guideline to bring their own translators.
- There is also no information relevant to language access services or guidelines on the assessment appeal application for changed assessment.

We recommend that the website and County documents should give appellants a clear understanding of the available services and resources they are entitled to. The updated website should reflect the County's recently adopted policy guidelines for language access.

LACK OF DOCUMENTED PROCEDURES & INCONSISTENT ASSISTANCE LEVELS FROM COUNTY STAFF

Although the Assessor and Clerk of the Board had generally recommended practices for assisting LEP appellants, both offices lacked written, documented procedures for standard protocol. It was therefore difficult to gauge whether all staff consistently followed recommended guidelines. As also noted, translation services may sometimes be available to appellants depending on the language spoken and availability of certified bilingual staff. In practice this means that while some LEP residents will be able to receive services in their language, many others will not. As previously noted, appellants should be given a clear sense of the services that will be available to them. Relevant County documents should also be updated to reflect the County's recently adopted language access policy guidelines, to give appellants a clear understanding of the available services and resources they are entitled to.

NO MECHANISM TO RECORD LEP INTERACTIONS AND APPLICATIONS

Finally, there is no mechanism for County staff to record LEP interactions or appeal applications. Without data it is difficult for County staff to properly assess language assistance needs. We recommend that the assessment appeals application provide a place for appellants to indicate whether language assistance is needed, and if so, in what language. This information should then be tabulated on a yearly basis, and used to monitor the need for language assistance in the assessment appeals process. County staff are currently determining a feasible time-frame for implementing this recommendation in coordination with the State Board of Equalization.

CONCLUSION

The County should be mindful of several related issues. First, there are concerns about due process and related risk of claims against the County given the observed confusion over the nature and purpose of value hearings, standards of evidence, and hearing officers' authority and jurisdiction. There are also significant questions over whether taxpaying residents are being afforded with equal access to services and an equal opportunity to participate in the assessment appeals process. Finally, the confusion, lack of comprehension, and lack of adequate preparation seen at hearings is wasting County and appellant time and resources.

RECOMMENDATIONS

The Clerk of the Board should:

- 5.1 Update the County's website to state language access policies, and clearly specify where LEP residents may find additional resources, such as the State Board of Equalization website. (Priority 3)

- 5.2 Update instructions on the County's application for reduced assessment to clarify the County's language access policies, including the availability of translation services, and provide a place on the application for appellants to indicate whether language assistance is needed, and if so, in what language. (Priority 3)

SAVINGS, BENEFITS and COSTS

Implementation of recommendations 5.1 and 5.2 will result in modest costs to the County. It is estimated these tasks would require 10 hours of Clerk staff time, for a total

cost of approximately \$500. Additional costs may include information technology services to update the County's website, as well as printing costs associated with updated application materials. Costs specified here would be off-set by savings identified elsewhere in this report, including increased overall efficiencies at hearings due to improved communication and better prepared appellants.

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6. Hearing Policies and Practices

Background

The Office of the Assessor, the Clerk of the Board and the Office of the County Counsel provide primary staffing for the processing of assessment appeals in the County of Santa Clara, which centers on value hearings, whether conducted by appeals boards or hearing officers. The statutes governing hearings include the County's adopted Local Rules and ordinances, and the State Constitution and Revenue and Taxation Code. These statutes cover not only adopted procedures for hearings themselves, but also planning, scheduling, and other administrative tasks. The departments then develop internal policies to ensure compliance with these governing regulations.

Problem

The Local Rules and internal policy guidelines do not reflect current practices. As a result, inefficient hearing practices have become standardized; examples include postponements, continuances, and tracking assessment-appeals activities. For example, no hearing minutes are available for 224 meetings, or 65 percent of all appeals hearings during the period audited. In addition, the County's Local Rules need to be updated in order to correct deficiencies in current hearing procedures, including those related to board consideration for appeal reinstatement, pre-hearing conferences, and appearance-not-timely confirmed status. The last update to the County's Local Rules took place in 2010.

Adverse Effect

Inefficient practices waste County time and resources. Out-of-date written policies leave new staff without guidance as to their duties, and risk losing institutional knowledge of the reasons for policies, when experienced staff leave. The mismatch between current policies and current practices can create confusion for appellants.

Recommendations, Savings and Benefits

The Office of the Assessor and the Clerk of the Board should update all existing policies and procedures regarding the assessment appeals process. Specific clarification must be made regarding hearing confirmation and postponement requests; practices for continuances; and policy guidelines for special hearings. Finally, County Counsel should update the County's Local Rules for greater clarity on reinstatement requests, pre-hearing conferences, and the appearance-not-timely confirmed status.

BACKGROUND

Internal policy and procedure manuals help establish an internal control framework that enables departments to: (1) set and communicate clear expectations; (2) enforce standards and consistency; and (3) clarify functions and responsibilities. Further, the County's assessment appeals process, which centers on value hearings, as described in the Introduction, is governed by statutes including the County's adopted Local Rules and ordinances, and the State Constitution and Revenue and Taxation Code. These statutes cover not only hearing procedures, but also planning, scheduling, and administration. However, the statutes are vague or unclear on a number of key issues, which, in the absence of internal operational guidelines, has allowed a number of inefficient hearing practices to take hold in the County, including:

- Continuances and postponement practices
- Management and tracking of hearing activity
- Hearing procedures

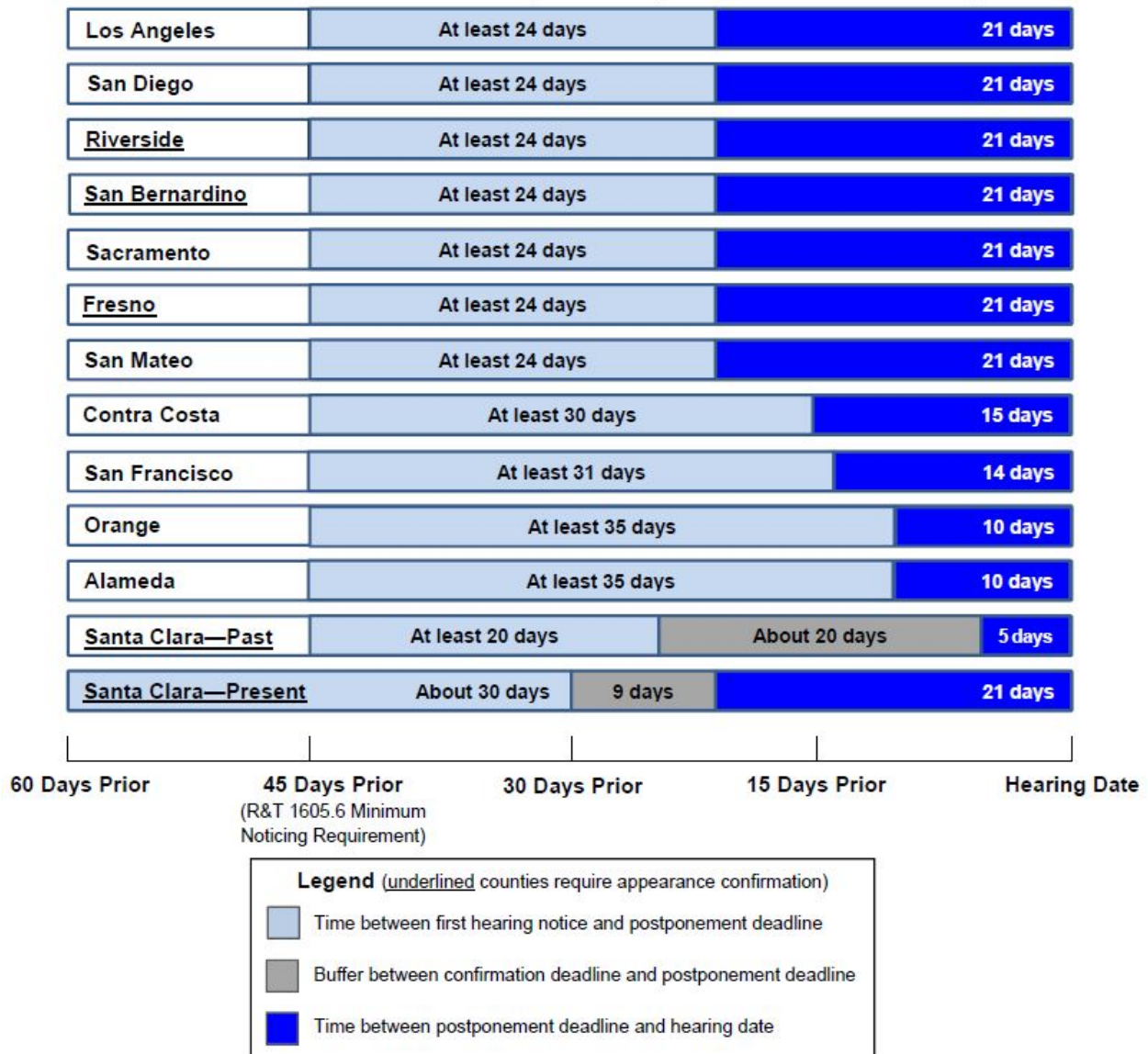
POSTPONEMENTS AND CONTINUANCES

Postponements and Continuances are governed by Section 323 of the Local Rules. Current practice allows both the applicant and the Assessor's Office one hearing postponement as a matter of right, provided the request is made no later than 21 days before the scheduled hearing date. Appellants are given the option of requesting this postponement on their appeal response forms, which are otherwise used to confirm the appellant's plan to attend the scheduled appeal hearing. For continuances, the Local Rules state that board or hearing officers are allowed to continue an appeal to a later hearing date at their discretion.

Postponements

The exhibit below was prepared by the Clerk of the Board for an internal report on hearing confirmation and postponement practices, and illustrates how the County of Santa Clara has a unique process for postponements among large counties in California. The County sends hearing notices to appellants earlier than mandated by the State Revenue and Taxation Code, and also has a unique nine-day "buffer" between the date an appellant must confirm their hearing attendance and the deadline for requesting a postponement. Practices of the County of Santa Clara and peer counties are described on the following page.

Exhibit 6.1
Hearing Notice, Postponement Deadlines, and Hearing Date



Source: Clerk of the Board

- Seven counties require an appellant to request postponement no later than 24 days after the date of the hearing notice they receive. The postponement deadline is also 21 days before the scheduled hearing date.
- The counties of Contra Costa and San Francisco require appellants to request postponement no later than 30 days and 31 days, respectively, after the hearing notice date, which are in turn 15 and 14 days prior to the scheduled hearing date.

- The counties of Orange and Alameda require appellants to request postponement no later than 35 days after the date of the hearing notice, which is 10 days prior to the scheduled hearing date.

By contrast to these practices, Santa Clara actually gives appellants two windows to request postponements. The first is via the first hearing notice, which in the past could be returned to request postponement within 20 days after the date of the notice, and now can be returned within about 30 days after the date of notice. Separately, appellants can also request postponements without using the return portion of the hearing notice. In the past, this was permitted up to five days before the assigned hearing date, but now must occur at least 21 days before the scheduled hearing date.

This practice of providing appellants two routes to request postponement is unnecessarily complicated and can contribute to confusion prior to hearings, while not serving any compelling function for the County. Based on our observation of several assessment appeals hearings, confusion is a regular feature of assessment appeals hearings, and there are already a significant number of appellants who are denied for lack of appearance at hearings. Any practice that might contribute to or exacerbate such issues should be avoided whenever possible.

An internal memo prepared by the Clerk of the Board on hearing confirmation practices noted that the County “has devised a procedural mechanism unique among large counties with respect to assessment appeals hearing attendance—one that gives considerable regard to the workload and workflow concerns of the Assessor’s Office.” The memo also noted that the inherently complex and nuanced aspects of assessment appeals are already difficult for appellants to navigate; therefore adding additional layers of complexity to the confirmation process was not desirable.

As is the case in other counties, appellants should either confirm hearing attendance or request a postponement by the same deadline. Given the decline in appeals, staffing increases, and the County’s workload compared to other large California counties, the prevailing practice among large counties of providing 30 days’ preparation time for value hearings should be sufficient. Simplification of this process will contribute to greater efficiencies during assessment appeals hearings.

Continuances

As noted previously, continuing an in-progress appeal to a later hearing date is a matter of board and hearing officer discretion. Generally speaking, the Office of the Assessor or the applicant/agent will request a continuance, or an issue will arise during a hearing which requires further time and study. However, a lack of clarity within the statutes has contributed to inefficiencies with the County’s current continuance practice, as

evidenced by our observations at hearings, and a review of a sample of appeals.

Observations from Hearings

There were a total of 499 agenda items heard between the three assessment appeals boards over the course of three hearings attended by the Management Audit staff in October 2014. As shown in the exhibit below, of the 499 total agenda items, approximately 33 percent, or 167, received a final determination during or immediately following the hearing date¹. Approximately two-thirds, or 332, required a future hearing of some kind.

Exhibit 6.2
Hearing Outcomes for Assessment Appeals Boards, October 2014

Outcome	Number of Board Agenda Items, October 2014	% of Total
Final determination via hearing	167	33%
Future hearing required	332	67%
Total	499	100%

Source: Management Auditor Review of Assessment Appeals Board Meeting Minutes

Concerns about the number of continuances were also raised by the Board members themselves during hearings. Particular items had been continued so many times that Board members, appraisers, and appellant agents had lost track of the appeal status, forgetting what information was pending and from whom it was needed. These incidents led to confusion and wasted time as staff determined what the original issue was.

For example, at a value hearing held by Board II on October 22, 2014, the Chair asked why there had been so many requests for continuances, including one pending stipulation that had been continued four times. The Chair further noted, “[w]e’ve been continuing these an awful long time. I’ll schedule for 30 days, and we will not continue again”; adding further “[e]ither get the stipulation done in 30 days, or it’s a value hearing that day.”

Sample of Appeals

A more complete picture emerges through a review of a sample of appeals. As shown in the exhibit below, 26 percent of sampled items were continued twice or more, 19 percent were continued three or more times, and 6.3 percent were continued five or

¹ This included actual valuation determinations by the board, accepted stipulations, withdrawals, or denials for lack of appearance, for example.

more times. On average, the appeals in our sample required 2.5 hearings per appeal. For the sample of 97 appeals shown in Table 6.3 below, 244 hearings were scheduled to complete 97 appeals, of which 147 resulted in non-productive continuances without final action being taken by an appeals board. For the sample of 97 appeals shown in Table 6.3 below, 244 separate scheduled discussions were held, or an average of 2.5 sessions per appeal.

Exhibit 6.3
Number of Continuances Granted

Number of Continuances Granted	Number of Appeals	% of Total
0	29	30%
1	43	44%
2	7	7%
3	6	6%
4	5	5%
5	3	3%
6	1	1%
7	1	1%
12	2	2%
Total	97	100%

Source: Management Auditor Sample of Appeals

Need for Additional Clarity and Evaluation

There are many reasons why a continuance may have been a valid outcome for any particular appeal. In the aggregate, however, the above data should illustrate that a significant amount of board time at hearings is taken up by work that is more procedural or administrative in nature as opposed to making final value determinations and resolving appeals. Although it is not clear why there are so many continuances, the large numbers observed are a concern, and additional information should be available so patterns can be tracked.

According to the State Board of Equalization manual, there are two primary reasons for continuing a hearing: 1) new information introduced at the hearing, or 2) there is an amendment to the application. While this characterizes some of what was observed, it does not fully explain the extent of requested and granted continuances.

Improved communication and clearer guidelines as to appropriate reasons for granting a continuance, and possibly including limits on the number of continuances granted per case, without sufficient documented cause, could help reduce non-essential continuances, and incentivize the resolution of outstanding issues, resulting in potential

savings for the County through increased efficiencies.

The Clerk of the Board, working with the three Assessment Appeals Boards, should develop guidelines as to when and why continuances will be granted by each Board, including a requirement that the reasons for each continuance be stated in the minutes for each Board's meetings. Continuances for the purpose of ongoing discussions between the appellant and the Office of the Assessor for a stipulation should be strictly limited. If the parties to any specific appeal are unable to gather the requisite information from each other or otherwise come to satisfactory agreement on the outstanding issues, the matter should be determined via a value hearing, as provided for in the statutes.

MANAGEMENT & TRACKING OF HEARING ACTIVITIES

The Clerk of the Board maintains responsibility for keeping a record of all appeals board and hearing officer activity. The Local Rules mandate that all hearings, excluding private deliberations, will be tape recorded; in addition, the Clerk keeps signed, official meeting minutes. The statutes also include language on compensation for board members and hearing officers for their participation in hearing activities; the Clerk is responsible for the processing and payment of these stipends.

Meeting Records

As seen in the exhibit below, there have been a total of 347 board and hearing officer meetings over the assessment appeal time period of this audit, including assessment appeals boards, value hearing officers, special meetings, and private deliberations.

Exhibit 6.4
Number of Hearings by Hearing Body

Hearing Body	No. of Hearings	% of Total
Value Hearing Officers	70	20%
Assessment Appeals Board I	68	20%
Assessment Appeals Board II	68	20%
Assessment Appeals Board III	46	13%
Special Meetings	45	13%
Legal Hearings	34	10%
Private Deliberations	15	4%
Procedure Discussion	1	0%
Total	347	100%

Source: Clerk of Board, Record of Assessment Appeals Hearings

Of the total 347 meetings, signed meeting minutes were available for approximately 123, or 35 percent of the total. A notable gap existed for Special Meetings, of which there were only five official meeting minutes available, or 11 percent of the total of 45 sessions.

The Clerk of the Board explained that there are a variety of reasons why a full and complete record of meeting minutes was not available, including inadequate staffing, task prioritization, technical limitations, and workload increases. The Clerk changed the minutes format in late 2011 in order to increase the efficiency of processing meeting minutes², and is working on addressing the backlog.

Because the minutes have only ever been requested for the purpose of this audit, the Clerk of the Board should consider ending the practice of producing meeting minutes, which consumes significant staff time, and instead track key data points from meetings in AIMS.

No Official Policy on Record-Keeping

First, while there is a generally-accepted practice, there is no official policy regarding the keeping of meeting minutes. As noted, the Local Rules only mandate that meetings be tape recorded. The Clerk of the Board has recorded minutes to track hearing actions; however, this information could more cost-effectively be maintained in AIMS and the future information system. The key information tracked should include all relevant appeal decisions, total hearing times, the basis of any approved continuances, and whether deliberations extended to non-hearing days.

Date and Time of Value Decisions should be Accurately Recorded

Value decisions made during private deliberations that occur on non-hearing days should record the date and time of the final determination. Currently these will be retroactively applied to the original hearing minutes, which give the false impression that decisions were made on the date of the hearing. In fact, the Board may have come to the determination during private deliberations the day after the hearing, or even a week later.

Guidelines on Hearings on Special Dates

Finally, there should be additional guidelines on special meetings, including when a special hearing is appropriate as opposed to a more traditional value hearing. Currently the Local Rules only specify that a special meeting may be called as deemed necessary. Considering that special meetings comprise nearly 13 percent of the total

² Currently the Clerk of the Board only records the official board action taken at the hearings for individual appeals. This is in contrast to past practice where the clerk produced full narrative accounts of substantive discussions.

number of hearings, and are generally reserved for complex appeals, there should be more clarity on their purpose and use.

In addition, all of these policies and procedures should be collected in a single policy manual, easily accessible to all employees. Current policies have been saved in SharePoint, which employees must navigate on their own for information and guidance.

Board and Hearing Officer Stipends

Stipends are not Dependent on Length of Time in Hearings

As noted above, according to available data the average hearing time for a value hearing is approximately 4.7 hours, and roughly 40 percent of all hearings last four hours or less. Due to the compensation language in the County's ordinances, however, board members and hearing officers receive a full day's stipend of \$300 regardless of the length of the hearing.

Other large counties in California have alternative arrangements, wherein board members are paid on a half-day or other incremental basis, depending on the actual time in hearings. These practices are shown in the following table.

Exhibit 6.5
Stipend Practices for Appeals Board Members in Large California Counties

County	Stipend Amount
Alameda	\$200 / hearing
Contra Costa	\$200 / half day \$300 / full day
Fresno*	\$50 / half day \$100 / full day
Los Angeles	\$150 / 1-4 hours \$225 / 4-6 hours \$300 / full day
Orange*	\$125 / half day \$250 / full day
Riverside	\$300 / hearing
Sacramento*	\$100 / half day \$200 / full day
San Bernardino	\$150 / half day \$200 / full day
San Diego*	\$50 / half day \$100 / full day
San Francisco*	\$100 / half day \$200 / full day
Santa Clara	\$300 / hearing

Source: Management Audit Survey. Counties marked with an asterisk did not respond to the survey request; data for these counties based on a 2010 survey performed by the Clerk of the Board.

By following the practice of the other large counties that provide a partial-day payment to Assessment Appeals Board members for hearing days lasting less than four hours, we estimate the County could save \$11,280 annually, based on the number of hearings held in 2014, and assuming a payment of \$200 for each session of four hours or less. Considering that Assessment Appeals Board members are professionals who could likely earn significantly more than their Board pay in their chosen professions, further reducing the stipends risks having Board members resign, thereby losing their experience and qualifications, and requiring the Board of Supervisors to then locate new community members to perform this role. Accordingly, we view the decision to modify the County's stipend practice as a policy decision for the Board.

Unclear Language on Stipend-Eligible Activity in Compensation Ordinance

The compensation language within the County's ordinances is slightly unclear regarding the scope of activities which render a member eligible to receive the stipend. For Boards, the ordinance states that members of the boards will receive stipends for each day a member is in attendance at a Board meeting. For hearing officers, the ordinance states an officer will receive a stipend for each day they conduct a hearing.

However, both Board members and hearing officers will receive a full day's stipend for *any* assessment appeals-related activity they participate in on County property, including hearings, private deliberations, special meetings, trainings, or other meetings. The County's ordinance language should be updated to clarify the eligible range of activities for which Board members can claim stipends; we recommend that the Board of Supervisors establish an hourly rate for any work that takes place outside of the hearing environment.

Insufficient Controls over Board and Hearing Officer Stipends

Finally, the Clerk does not have sufficient controls over the stipends. Currently, the only records for private deliberations are the stipend claims submitted by Board members and hearing officers. Although this process has not been abused thus far, there should be rules of order regarding how these meetings are scheduled and recorded, as well as controls to prevent potential fraud. We recommend that the Clerk provide the date and time of the private deliberations, the case names and numbers discussed, the amount of time spent in deliberations, and any decisions made. The substance of the deliberations can remain private, as proscribed by the Local Rules, Section 312 (d), footnote 19.

UPDATED LOCAL RULES to IMPROVE HEARING PROCEDURES

Updates are needed to the County's Local Rules in order to increase the efficiency of hearing procedures and reduce risks to the County.

Board Consideration Items

At any given assessment appeals hearing there are a number of appeals that fall under the category of "Board Consideration". These are items which require some sort of board determination over whether an appeal will be allowed to move forward.

A significant number of Board Consideration items consist of reinstating appeals which had previously been denied for lack of appearance. According to the Local Rules, appellants who have been denied for lack of appearance have 60 days to request a reinstatement. Provided appellants have a valid excuse for missing their original

hearing, Boards will generally grant reinstatement as per their discretion.

In order to save the amount of time spent on these procedural items, the Clerk should have the ability to reinstate or deny timeliness related applications following guidelines that have been provided by the Board of Supervisors, or by the Assessment Appeals Boards, as designees of the Board of Supervisors. The Local Rules specify that that the Board of Supervisors may adopt procedures which authorize reconsideration of the denied appeals. The County can therefore adopt clear guidelines that authorize the Clerk to reinstate straightforward cases of timeliness that have appropriate supporting evidence. This would require additional training for Clerk staff to make proper determinations regarding “good cause” for reinstatement, and should be documented in the Local Rules.

The proposed guidelines should define situations where the Clerk can automatically grant reinstatement, based on the guidelines provided, situations where reinstatement is not permitted, as specified by the appeals boards, and situations where appeals will be considered by the appeals boards on a case-by-case basis, including jurisdictional issues or the validity of application amendments.

Pre-Hearing Conferences

According to the State Board of Equalization Assessment Appeals manual, “[a] prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing conference is to resolve issues such as... clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application.”

In the County of Santa Clara, these conferences take place during regularly scheduled assessment appeals hearings. At present the County is not in compliance with the State Revenue and Taxation Code as reflected in its own adopted Local Rules, which state “[i]f prehearing conferences are established, the county board of supervisors shall adopt rules of procedure for prehearing conferences.”

As of yet these procedural rules have not been adopted, although the County Counsel has stated the guidelines will be included in next revision of Local Rules. Given that the County is not currently in compliance with an unambiguous mandate in the statutes, these updates should be completed as quickly as possible. Consistent with the scheduling of other assessment appeals hearings, the Local Rules should specify that the Clerk of the Board should schedule these conferences.

Appearance-Not-Timely Confirmed Status

When an appellant does not respond to the hearing notice to confirm attendance at the value hearing, they are put into Appearance-Not-Timely Confirmed, or non-value, status. The appellant can keep their appeal active only by showing up at the hearing and requesting that their appeal be continued to a later date. They would not, for example, be entitled to a value hearing that day, or be allowed to present any evidence relevant to their appeal.

The issue, however, is that this status does not technically exist in the Local Rules, and further the Local Rules do not specify consequences for not responding to the hearing confirmation notice. Staff in the Office of the Assessor have expressed concern that an appellant could challenge being denied the right to present evidence for a value hearing, on the grounds of a lack of clarity in the Local Rules.

Although the non-value status and current County practice has not been formally challenged by any appellants thus far, this oversight does represent a minor risk to the County and should therefore be addressed and clarified. As with pre-hearing conferences, County employees have stated that this status, and the consequences for not responding to the hearing notice, will be appropriately clarified in the next version of the Local Rules.

CONCLUSION

Without updated policies and procedures, which include the County's adopted Local Rules as well as internal operational guidelines, the departments cannot ensure and enforce consistent standards, or maintain effective and efficient management of the assessment appeals process. Confusion among appellants also occurs. Remediation of the above identified areas will allow for greater efficiency, improved clarity, and remove potential liabilities for the County.

RECOMMENDATIONS

The Clerk of the Board should:

- 6.1 Consider eliminating the practice of recording meeting minutes from Assessment Appeals hearings, and ensure that relevant data from meetings is maintained in AIMS or future information systems. (Priority 3)

The Clerk of the Board, working with the Assessor's Office and three Assessment Appeals Boards, should:

- 6.2 Update existing policies and procedures regarding assessment appeals to reflect current practices and collect them in a single policy manual. Specific attention should be given to:
 - a) Specifying the same deadline for hearing confirmation and postponement requests, following the practice in other counties.
 - b) Adopting policy guidelines for special hearings, including their purpose and when they are appropriate. (Priority 3)
- 6.3 Establish guidelines for continuances, including regular tracking of continuances, and assess how to limit non-essential continuance requests. (Priority 3)
- 6.4 Adopt procedures for keeping records of private deliberations that fall on non-hearing days, and establish appropriate stipend controls. Record the date and time of value decisions made during private deliberations that occur on non-hearing days. (Priority 3)

The County Counsel should:

- 6.5 Update the Local Rules to clarify standards and reflect current practices. Specific attention should be given to:
 - a) the County's practice for keeping official, signed minutes for all assessment appeals-related hearings, in consultation with the Clerk of the Board.
 - b) the Clerk's ability to address requests for reinstatement based upon established guidelines for timeliness and supporting evidence.
 - c) the rules of procedure for pre-hearing conferences; and
 - d) the inclusion of Appearance-Not-Timely Confirmed, or Non-value, status, with clarifying language regarding consequences for non-response to the County's hearing confirmation notices. (Priority 3)

The Board of Supervisors should:

- 6.6 Update the County's Code of Ordinance, Chapter II, Sec. A4-15, and Chapter III, Sec. A4-30, on "Compensation" to clarify the full range of activities for which Board members and hearing officers are eligible to receive stipends, and specify an hourly rate that should be paid for these non-hearing activities. The Board may also want to evaluate the County's current stipend policy in light of the comparative practices in other counties as shown in Table 6.5. (Priority 3)

SAVINGS, BENEFITS and COSTS

Implementation of these recommendations will result in minimal fiscal impact on the County. Many of these responsibilities fall within existing job roles, and should be completed as soon as possible. However, portions of recommendations 6.1 through 6.3 may require an additional commitment of staff time, estimated at 30 hours, resulting in a total estimated cost of \$2,400. Many of the recommendations identified here, as well as those specified earlier in Sections 4 and 5, should contribute to substantially increased efficiencies, resulting in a potential 20% reduction in average hearing times. Such a reduction would contribute to savings of \$23,000 in County staff time. Implementation of recommendation 6.4 is already in progress, as County Counsel is in the process of revising the Local Rules, and should be expedited. Implementation of recommendation 6.5 will also result in savings for the County. If the Board adopted a policy to pay \$200 stipends to board members and hearing officers for hearings lasting four hours or less, total savings would equal a yearly reduction of approximately 27 percent. Based upon data from 2014, this would yield savings of approximately \$11,000.

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County of Santa Clara Assessment Appeals Process
Survey of California Counties
December, 2014

Q1. Please provide your contact information.

7 Respondents (100%)

Q2. Please indicate the total number of assessment appeals filed with your County for each of the past three fiscal years.

7 Respondents (100%)

	<u>Total # of Assessment Appeals Filed</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	4,896
Alameda	8,248	7,373	4,786
San Diego	19,220	14,628	7,135
Riverside	12,324	19,151	485
Los Angeles	54,729	51,169	43,692
Contra Costa	2,259	1,285	1,089
Orange	17,558	17,270	11,227

Q3. Please indicate the total number of assessment appeals resolved for each of the past three fiscal years.

7 Respondents (100%)

	<u>Total # of Appeals Resolved</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	6,112
Alameda	7,631	6,245	2,000
San Diego	19,148	14,382	4,430
Riverside	485	258	71
Los Angeles	43,894	52,022	36,477
Contra Costa	2,252	1,263	1,026
Orange	5,535	6,555	4,745

Q4. For each of the last three Fiscal Years, please specify the number of appeal applications which were denied for lack of appearance.

7 Respondents (100%)

	<u>Total # of Appeals DLA</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	661
Alameda	716	659	19
San Diego	1,266	1,014	349
Riverside	3,697	5,745	4,918
Los Angeles	6,092	7,540	5,497
Contra Costa	181	125	74
Orange	473	678	484

County of Santa Clara Assessment Appeals Process
Survey of California Counties
December, 2014

Q5. For each of the last three Fiscal Years, please specify the number of appeal applications which were withdrawn.

7 Respondents (100%)

	<u>Total # of Appeals Withdrawn</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	2,044
Alameda	2,014	1,711	473
San Diego	3,046	5,425	5,028
Riverside	6,162	9,575	8,196
Los Angeles	17,231	21,120	13,227
Contra Costa	1,646	875	917
Orange	1,965	2,392	2,630

Q6. For each of the last three Fiscal Years, please specify the number of appeal applications which were stipulated.

7 Respondents (100%)

	<u>Total # of Appeals Stipulated</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	2,048
Alameda	3,186	2,162	535
San Diego	12,313	7,452	1,425
Riverside	1,849	2,876	2,459
Los Angeles	1,075	393	321
Contra Costa	338	187	19
Orange	930	1,683	714

Q7. For each of the last three Fiscal Years, please specify the number of appeal applications which were determined by other board decisions.

5 Respondents (71%)

	<u>Total Resolved via Other</u>		
	FY 2011-12	FY 2012-13	FY 2013-14
San Bernardino	blank	blank	368
Alameda	blank	blank	blank
San Diego	blank	blank	blank
Riverside	485	258	71
Los Angeles	17,726	20,753	16,567
Contra Costa	87	76	16
Orange	675	816	327

County of Santa Clara Assessment Appeals Process
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Q8. Please enter the total number of FTEs used to support the assessment appeals process in your County.

5 Respondents (71%)

	<u>Assessor's Office</u>	<u>COB</u>
San Bernardino	blank	3
Alameda	blank	4
San Diego	blank	blank
Riverside	blank	blank
Los Angeles	-	21
Contra Costa	1	2
Orange	Blank	10

Q9. Enter your County's total expenditures and operating costs for the assessment appeals function in FY 2013-14.

2 Respondents (29%)

	<u>Assessor's Office</u>	<u>COB</u>
San Bernardino	blank	blank
Alameda	blank	blank
San Diego	blank	blank
Riverside	blank	blank
Los Angeles	blank	blank
Contra Costa	\$1	\$73,850
Orange	blank	\$1,659,376

**County of Santa Clara Assessment Appeals Process
Survey of California Counties
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Q10-14. County Policies Regarding Filing Deadlines, Notification Deadlines, Postpone Deadlines, Application Fees, and Fee Refunds. 7 Respondents (100%)

	<u>Q 10</u> Filing Deadline	<u>Q11</u> Days Prior to Hearing for Notification	<u>Q12</u> Postponement Deadline	<u>Q13</u> Application Fee	<u>Q14</u> Fee Refund
San Bernardino	30-Nov	45 days	21 days 1 day at least, 10 days	\$45	No
Alameda	15-Sep	45 days	allowed	\$50	No
San Diego	30-Nov	45 days	21 days	\$-	No
Riverside	30-Nov	45 days	21 days	\$30	Yes
Los Angeles	30-Nov	45 days	21 days	\$-	No
Contra Costa	30-Nov	45-50 days	1 day	\$40	No
Orange	15-Sep	60-70 days	10 days	blank	blank

Q15. Are there situations where the County requests appellants to waive the two-year assessment appeal resolution deadline as specified by the provisions of Revenue and Taxation Code Section 1604(c) and Property Tax Rule 309(b)?

6 Respondents (86%)

Yes 100%
No 0%

Q16. For each of the last three Fiscal Years, please specify the number of waivers signed by appellants.

4 Respondents (57%)

	<u># of Waivers</u>		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
San Bernardino	blank	blank	blank
Alameda	577	693	88
San Diego	321	645	96
Riverside	blank	blank	blank
Los Angeles	6,382	9,874	3,145
Contra Costa	blank	blank	blank

County of Santa Clara Assessment Appeals Process
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Q17. Is there a limitation to the number of continuances to which either the applicant or assessor is entitled?

6 Respondents (86%)

Yes 50%

No 50%

Q18. Are appeal board public hearing calendars set based upon a notice of readiness by the assessor or set independently by the Clerk's office?

4 respondents (57%)

Assessor's Office 25%

Clerk's Office 25%

Other 50%

Q19. If public hearings are set based upon notices of readiness by the Assessor's office, do appraisers have discretion to send appeals to particular boards or hearing officers?

3 Respondents (43%)

Yes 0%

No 100%

Q20. Does your current assessment appeals IT system meet your County's needs?

5 Respondents (71%)

Yes 60%

No 40%

Q21. Please provide your FY 2013-14 budget for assessment appeals-related IT systems, and the number of FTE required to support your County's assessment appeals IT.

2 Respondents (29%)

LA and Contra Costa both responded \$0.

County of Santa Clara Assessment Appeals Process
Survey of California Counties
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Q22. Please specify the number of Assessment Appeals Boards and Hearing Officers in your County.

5 Respondents (71%)

	<u>AAB</u>	<u>HO</u>
San Bernardino	4	Blank
Alameda	1	12
San Diego	-	-
Riverside	5	5
Los Angeles	3	30
Contra Costa	1	-

Q23. What stipend is paid to assessment appeals board members? What stipend is paid to value hearing officers (if applicable)?

6 Respondents (86%)

San Bernardino	150 (half day); 200 (full day)
Alameda	200
San Diego	blank
Riverside	300
Los Angeles	150 (min); 300 (max)
Contra Costa	200 (half day); 300 (full day)

Q24. If your County has multiple Assessment Appeals Boards, are workloads divided roughly equally between the boards, or do some boards see more appeals than others?

5 Respondents (71%)

Approximately Equal 80%
 Not Equal 20%

Q25. Does your County have any means of separating residential and commercial appeals at value hearings?

5 Respondents (71%)

Yes 80%
 No 20%

**County of Santa Clara Assessment Appeals Process
Survey of California Counties
 December, 2014**

Q26. For FY 2013-14, enter the total number of appeals heard by Assessment Appeals boards and Value Hearing Officers. 1 Respondent (14%)

Los Angeles: 1 per each board

Q27. How are members of the Assessment Appeals board recruited and / or selected for service? Check all that apply.

6 Respondents (86%)

Assessor's Office	0	0%
Board of Supervisors Recommendation	6	100%
Clerk of the Board Recommendation	2	33%
Independent Application	3	50%
Other	1	17%

Q.28 Please provide the tenure of all current Assessment Appeals board members in your County.

4 Respondents (57%)

San Bernardino	Blank
Alameda	Blank
San Diego	All between 1-4 years
Riverside	4 between 1-4 years, 9 between 4-8 years, 2 more than 8 years
Los Angeles	1 less than 1 year, 1 between 1-4 years, 13 more than 8 years
Contra Costa	1 less than 1 year, 1 between 4-8 years, 3 more than 8 years

**County of Santa Clara Assessment Appeals Process
Survey of California Counties
 December, 2014**

Q29. How often are staff required to complete training for assessment appeals related functions?

5 Respondents (71%)

	<u>AO</u>	<u>COB</u>
San Bernardino	blank	blank
Alameda	blank	as needed
San Diego	blank	annually
Riverside	blank	annually
Los Angeles	blank	as needed
Contra Costa	blank	blank

Q30. Please describe the training opportunities available to assessment appeals-related staff.

3 respondents (43%)

Alameda	Unknown
Riverside	Online
Los Angeles	1

Q31. Does the County make a determination of applicant readiness prior to an assessment appeals hearing?

6 Respondents (86%)

Yes 17%
 No 83%

Q32. Please describe all training opportunities that are available to residents prior to assessment appeals hearings.

4 Respondents (57%)

San Bernardino	Blank
Alameda	Blank
San Diego	Website
Riverside	online tutorials, printed material, telephone & email customer service
Los Angeles	monthly Public Education seminars
Contra Costa	online, printed, telephone customer service

County of Santa Clara Assessment Appeals Process
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Q33. Does the County have policies or other documented 'rules of engagement' regarding communication with appellants? 4 Respondents (57%)

Yes 75%
No 25%

Q34. Does your County process assessment appeals from Limited English Proficient (LEP) residents? 5 Respondents (71%)

Yes 60%
No 40%

Q35. Are additional accommodations available to assist LEP residents, either during the application process or during assessment appeals hearings?

5 Respondents (71%)

Yes 40%
No 60%

Q36. If yes to the previous question, please describe the assistance offered to LEP residents. 2 Respondents (29%)

Alameda: Language Line
San Diego: Bilingual Staff

Q37. Please provide the date of the latest revision to your County's Local Rules (if applicable). 5 Respondents (71%)

San Bernardino	2013
Alameda	blank
San Diego	2002
Riverside	2007
Los Angeles	2010
Contra Costa	unknown

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Q38. Does County Counsel act as the representative for the Assessment Appeals Board, Assessor's office, or both?

6 Respondents (86%)

Assessment Appeals Board/Hearing Officers 83%

Assessor's Office 83%

Q39. Please confirm if the County has adopted supplemental Local Rules or other policies pertaining to any of the below. Check all that apply.

2 Respondents (29%)

Conflict of Interest 100%

Ethics Guidelines 100%

Office of the Assessor

County of Santa Clara

County Government Center, East Wing
70 West Hedding Street, 5th Floor
San Jose, CA 95110-1771
(408) 299-5500 www.sccassessor.org
Assessor@asr.sccgov.org



Lawrence E. Stone, Assessor

June 16, 2015

Roger Mialocq
Harvey M. Rose Associates LLC
County Government Center, East Wing
70 W. Hedding Street, 10th Floor
San Jose, CA 95100

Re: Audit of the Assessment Appeals Process

Dear Roger:

Thank you for this opportunity to respond to the recommendations contained in May 29, 2015 Management Audit of the Santa Clara County Assessment Appeals Process. An audit of this kind provides an opportunity to conduct an independent and critical examination of existing policies and procedures in the county's assessment appeals program, and identify best practices for implementation.

In Santa Clara County, three departments bear primary responsibility for the operations of assessment appeals: the Clerk of the Board, the Office of the Assessor, and County Counsel. As Assessor, I have worked to create an efficient, customer-focused organization that utilizes technological improvements to increase productivity. We have developed and implemented work process improvements to enable us to manage increased workload demands with limited resources, while improving customer service to taxpayers and public agencies that depend on property tax revenue. Our success is the direct result of an exceptional management team, an experienced and dedicated team of certified assessment professionals and competent support staff.

Our office is extremely proud of our success in the timely and accurate defense of assessment appeals. During the past five years, we successfully defended assessed values at the Assessment Appeals Board, consistently retaining between 90 to 95 percent of the disputed assessed value or "value at risk". In fiscal year 2013-2014, the Assessor's Office resolved 8,829 appeals, and successfully retained 94.6% of the \$62.7 billion of the assessed value at risk. We have also been successful in several multi-billion-dollar challenges from major corporations including Applied Materials and Hitachi.

Our cost accounting system enables us to determine the fully-loaded cost of every activity we perform and the average revenue each generates. Everything we do is fiscally accounted for, from both a cost and revenue standpoint. The system allows us to identify problems early, and redirect limited resources if necessary, to achieve and maintain a high level of productivity and service to our “customers,” which include property owners and public agencies.

Assessment appeal filings have increased from a normal rate of 3,000 to 4,000 per year. During the 2009/2010 filing period, our office received an unprecedented 11,168 appeals! While the number of appeal filings has decreased since its peak in 2009, the annual filings are still above normal levels. The average number of appeals filed over the last three years is 7,100.

To manage the record increase in assessment appeals, we redirected existing staff resources to get ahead of the growing backlog. It is important to note that assessment appeals must be resolved within two years from the filing date, unless the county can obtain a waiver from the taxpayer. The following chart illustrates how the Assessor’s Office was able to react proactively, and redirect existing resources while maintaining a high level of productivity and customer service:

Fiscal Year	Appeals Filed	Appeals Resolved	Appeals Labor Hours	Equivalent FTE's*
2008/2009	5,630	3,379	36,932	22.4
2009/2010	11,168	5,863	46,776	28.3
2010/2011	9,163	9,298	61,281	37.1
2011/2012	8,578	8,943	60,699	36.8
2012/2013	7,371	9,144	63,090	38.2
2013/2014	5,443	8,829	62,504	37.9

*Based on average productive hours of 1,700 per employee

Source: Assessor's Office Cost Accounting Reports

It is important to note that diverting significant staff time and resources to resolving the appeals backlog has resulted in less staff time devoted to working revenue-generating activities (changes of ownership, new construction, and business property audits). In FY 2013, the Santa Clara County Board of Supervisors approved funding for 16 additional staff members to enable the Assessor to meet our constitutional mandate.

In addition, we worked cooperatively with the Board of Supervisors and the Clerk of the Board to create a third assessment appeals board, and establish a Value Hearing Officer (VHO) program to expedite routine residential assessment appeals. Under the VHO program, residential appellants may elect to have their case heard by a single value hearing officer, in a less formal environment. The outcome is a more rapid resolution of residential appeals, allowing the traditional three-member assessment appeals boards to adjudicate more complex, high-value commercial and business appeals. The value hearing officer program has been very successful. Between July 1, 2013 and June 30, 2014, the value hearing

Roger Mialocq, Harvey M. Rose Associates
June 16, 2015
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officer program resolved 656 appeals. As a result, 90% of all residential assessment appeals are resolved within 12 months of their filing date.

We continue to focus on developing and implementing solutions to improve efficiency, enhance productivity and increase performance. The number of assessment appeals filed in Santa Clara County equate to less than 2% of the total assessable units (includes real property parcels and business accounts), one of the lowest rates when compared to counties with similar unit counts.

We believe that this is due to our proactive review and annual notification to property owners of the assessed value of all residential properties as of the January 1 lien date. Santa Clara County is one of only ten counties in California to provide an early notice of their assessed values, enabling taxpayers to request an informal review. In many instances those informal reviews allow us to correct the value before the tax bill is issued in October. This is beneficial for the assessor and taxpayers as it avoids an unnecessary, time-consuming and far more expensive assessment appeal. In 48 of 58 California counties, the first time a property owner learns of their assessed value is when they receive their tax bill.

When the market value of a property declines below its factored base year value, the Assessor is required to proactively reduce the assessed value to reflect the lower market value. However, as the real estate market rebounds, the Assessor is also required to restore the assessed values for properties previously reduced during the downturn.

To assist the Assessor's Office with this annual review, we have deployed a market-based computer assisted mass appraisal (CAMA) technology to electronically adjust assessed values, consistent with the market. Additionally, Santa Clara County is the first in California to develop and utilize an online tool that allows taxpayers to securely view and download the comparable residential properties used to determine their assessment. This has improved productivity, reduce taxpayer frustration, and ultimately, reduce the number of taxpayers filing formal appeals.

Our office has solicited feedback from the Assessment Appeals Board members on how we can improve the quality of our appraisal documentation. Based on their feedback, we have enhanced our in-house Residential and Commercial Appraisal Tools to standardize appraisal templates including detailed property descriptions, property maps, photos of the subject property and comparable sales when available.

In 2012, following a similar audit of the assessment appeals process by Macias Consulting, an outside auditing firm, our office recognized the importance of improving transparency in the processing of assessment appeals, including how assessed values are equalized by the Assessment Appeals Board. In close coordination with the Clerk of the Board and County Counsel, the Assessor's Office revised its internal procedures and required all appraisers to provide complete appraisal documentation to support each stipulation agreement that was submitted to the Assessment Appeals Board for review and approval. Once the stipulation is approved, the stipulation document and appraisal record become part of the public record.

Roger Mialocq, Harvey M. Rose Associates
June 16, 2015
Page four

Professional training is also a cornerstone of our success. Last year, we facilitated 10,235 hours of professional training, including 3,581 hours of State Board of Equalization training classes. In addition, we provide our staff on-the-job training. Appraisers promoted to positions responsible for administering appeals undergo an intensive on-the-job training program. Comprehensive on-the-job training allows our staff to begin transitioning into classifications of higher responsibility, enabling us to meet our appeal and production workload demands.

Finally, our ability to provide improved customer service with limited resources is the direct result of a comprehensive performance measurement and management system we developed and implemented over several years. We conduct formal customer satisfaction surveys covering all functional areas of the office. Consistent with our commitment to utilize advanced technology, we transitioned from a standard paper satisfaction survey to a less expensive and more efficient telephone-based survey administered by an independent contractor. In the most recent survey for FY 2014, our customers provided our office a satisfaction rating of 86.4%.

We appreciate the opportunity to meet, confer and respond to the audit report, and believe that the audit provides some excellent suggestions as to how to improve the county's assessment appeals program. I also wish to express my appreciation to the audit team led by Amanda Guma for the professional manner in which the audit was conducted.

Enclosed is my written response to your findings and recommendations.

Sincerely,



Lawrence E. Stone
Assessor

Enc.

SANTA CLARA COUNTY ASSESSOR'S OFFICE
RESPONSE TO THE RECOMMENDATIONS CONTAINED IN THE MANAGEMENT AUDIT OF
THE ASSESSMENT APPEALS PROCESS

- 1.1a We agree with this recommendation.
- 1.1b We agree with this recommendation.
- 1.1c We agree with this recommendation.
- 1.2 We agree with this recommendation.
- 2.1 We agree with this recommendation. Our office believes that we have good oversight of the appeals process, but there are always opportunities for improvement.
- 2.2 We agree with this recommendation. Our office believes that we have sufficient measures in place to ensure appropriate supervisory oversight for quality control purposes. However, there is always an opportunity to improve performance metrics to monitor appraiser productivity.
- 2.3 We agree with this recommendation. While our office has always been committed to providing our professional certified staff with formal coursework and on-the-job training, we agree that mandatory "appeals" training to all appraisers new to assessment appeals is a good recommendation.
- 3.1 We agree with this recommendation. However, a review of the Board agendas in the last two fiscal years show a pretty balanced workload among the three Boards. Based on the table provided, it appears that Board 3 has had a workload more heavily weighted with residential appeals and relatively few business division appeals. The Assessor agrees that, over time it is best to develop programs that schedule according to rules developed with the COB, and that the COB have control over implementing scheduling according to those rules. This would best be achieved with a modern software package for scheduling. The COB and the Assessor are jointly pursuing an RFP now, in hopes of implementing a new system within a year. Until the new software package is realized, the Assessor recommends maintaining the same practices for scheduling, albeit with a keener eye to addressing the unequal distribution of the business division appeals. Perhaps internal controls in the Assessor's standards division, along with a quarterly review including the COB could address the issue adequately.
- 3.2 We agree with this recommendation. Due to programming limitations of the Assessor's AIMS legacy computer system, implementation of this recommendation would be possible only after the County acquires or develops a new assessment appeals computer program.
- 3.3 We agree with this recommendation.

SANTA CLARA COUNTY ASSESSOR'S OFFICE
RESPONSE TO THE RECOMMENDATIONS CONTAINED IN THE MANAGEMENT AUDIT OF
THE ASSESSMENT APPEALS PROCESS (cont'd)

- | | |
|-----|------------------------------------|
| 4.1 | N/A |
| 4.2 | N/A |
| 4.3 | N/A |
| 5.1 | N/A |
| 5.2 | N/A |
| 6.1 | N/A |
| 6.2 | We agree with this recommendation. |
| 6.3 | We agree with this recommendation. |
| 6.4 | We agree with this recommendation. |
| 6.5 | N/A |
| 6.6 | N/A |

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

70 West Hedding Street
East Wing, 9th Floor
San Jose, California 95110-1770
(408) 299-5900
(408) 292-7240 (FAX)



Orry P. Korb
COUNTY COUNSEL

Winifred Botha
Danny Y. Chou
Robert M. Coelho
Steve Mitra
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Division

FROM: Orry P. Korb, County Counsel *OK*

RE: Office of the County Counsel's Response to the Management Audit Division's
Audit Report of the County of Santa Clara Assessment Appeals Process

DATE: June 19, 2015

Recommendation 1.1a:

Solicit input from Assessment Appeals Board members, Value Hearing Officers, the Assessor's Office, and the Clerk of the Board to develop an official Deputy County Counsel job description with specifically defined responsibilities for Assessment Appeals functions, and include separate job descriptions for the Deputy County Counsels assigned to the Assessment Appeals Board and the Office of the Assessor.

Response to 1.1a:

Disagree. Official job descriptions already exist for all classifications of Deputy County Counsel and are attached to this response. These classifications specify, among other things, the skills, responsibilities, and judgment, required of attorneys who provide advisory, transactional, and advocacy services to any and all agencies, departments, boards, commissions, committees, officials, and employees in the County. No job descriptions or responsibilities are defined for any specific assignment. For example, an attorney advising the Personnel Board, the Planning Commission, or the Board of Supervisors should possess and exercise the same judgment and skill as an attorney advising the Assessment Appeals Board or a Value Hearing Officer.

Moreover, the Audit Report does not identify a problem in the Assessment Appeals or Value Hearing Processes requiring correction through the imposition of additional job specifications. The Audit Report concludes that ". . . there does not appear to be anything unethical taking place at a systemic level, and for the most part it appears that the Deputy County Counsel is simply trying to facilitate the overall assessment appeals process." (Audit Report, page 1-16.) While the Audit Report asserts there is a "problem" that "Counsel regularly provides unsolicited input on procedural, administrative, and evidentiary matters . . . [that] is inconsistent with current County policies and Local Rules . . ." (Audit Report, page 1.1), the report fails to identify a single policy or rule that has been violated.

Instead, the Audit Report relies on a narrow interpretation of "upon request" as used in sections A4-20 and A4-34 of the Santa Clara County Ordinance Code to support the impractical assertion that a Deputy advising a Value Hearing Officer or Assessment Appeals Board should remain silent unless verbally requested to give advice. The Audit Report fails to note that this language predates the "expanded role" of County Counsel undertaken in 1992,¹ when a Deputy County Counsel's attendance at Assessment Appeals Hearings occurred only when requested by the Assessment Appeals Board or Value Hearing Officer in order to provide advice.

The Audit Report cites four separate samples of value hearing proceedings as support for concluding that the Deputy County Counsel attending those Value Hearings provided "unsolicited input on procedural, administrative, and evidentiary matters which is inconsistent with current County policies and Local Rules as related to the role of the legal counsel to the Board . . ." and that "[t]hese issues should be handled by hearing officers and board members, the Clerk of the Board, or the Assessor's Office, depending on the context." (Audit Report, page 1-16.) However, these samples are subject to multiple interpretations and do not evidence the existence of a systemic problem. Each and every example cited in the Audit Report can be addressed in detail by describing the law and facts that were at issue; the nonverbal signals conveyed to the Deputy County Counsel by the Value Hearing Officer; the Deputy County Counsel's perception of what was occurring in the hearings; the appropriate role of legal counsel in each such circumstance; etc. It should instead suffice to point out that advising a board, commission, or hearing officer in a public proceeding is more art than science – easily subject to praise, criticism, or both. At best, the Audit Report provides an individual performance evaluation to which reasonable minds might strongly disagree.

Recommendation 1.1b:

Work with the Assessor's Office to jointly develop a policy regarding the role of County Counsel during the stipulation review process.

Response to 1.1b:

Disagree. The role of a county legal officer in the stipulation process is already addressed in Revenue and Taxation Code § 1607, in pertinent part, as follows:

. . . in the event there is filed with the county board a written stipulation, *signed by the assessor and county legal officer on behalf of the county* and the person affected or the agent making the application, as to the full value and assessed value of the property which stipulation sets forth the facts upon which the

¹ The expanded role of County Counsel is described in the Audit Report as having occurred after a management audit recommended that County Counsel attend all assessment appeals and provide expanded legal advisory services.

reduction in value is premised, the county board may, at a hearing, (a) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8, or (b) reject the stipulation and set or reset the application for reduction for hearing.

(emphasis added).

The Audit Report includes a series of email exchanges where a Deputy County Counsel requested an improved stipulation narrative better describing the facts that supported the stipulation. From these examples, the Audit Report concluded in a section titled "Division of Labor & Conflict of Interest Appearance Concerns" (Audit Report, page 1-12) that "[at] present the Deputy County Counsel is able to pass judgments about the perceived quality and completeness of Assessor's Office appraisals based on familiarity with the workflow preferences of individual appraisers, as evidenced by the comments on stipulation. This indicates a level of involvement that has likely become too close." (Audit Report, page 1-15.)

The Audit Report includes the text of Section 1607, but fails to address the language requiring that the assessor and county legal officer *on behalf of the county* sign the stipulation before it is considered by the county board. Contrary to the suggestion in the Audit Report that County Counsel should only approve stipulations "as to form" (Audit Report, page 1-12), the statutory role of a Deputy County Counsel in reviewing proposed stipulations is coupled with that of the Assessor's Office in preparing proposed stipulations – to represent the interests of the County in the stipulation process.

In addition to providing a check on the Assessor's role in preparing stipulations, the Deputy County Counsel's review ensures that stipulations are legally and factually sufficient to enable the Assessment Appeals Board to perform its role in determining whether stipulated values are correct. In this way, the detailed work of a Deputy County Counsel in reviewing stipulations promotes efficiency, consistency, and fairness in resolving assessment disputes.

Recommendation 1.1c:

Codify the updated duties and responsibilities of County Counsel in the next revision to the Local Rules, to be approved by ordinance of the Board of Supervisors. Further, Local Rules, Section 301 should clarify the authority of County Counsel to represent both the Assessment Appeals Board and the Office of the Assessor, pursuant to the condition that the same individual does not perform both functions.

Response to 1.1c:

Disagree. The role of a county counsel's office in representing parties in assessment appeals hearings is already codified in Government Code § 31000.7 as follows:

Memorandum to Roger Mialocq, Management Audit Division

Re: Office of the County Counsel's Response to the Management Audit Division's Audit Report of the County of Santa Clara Assessment Appeals Process

June 19, 2015

Page 4 of 5

“The same law firm shall not be employed to advise or represent both the assessor and the county board of equalization on any matters relating to hearings before the county board of equalization. This prohibition shall not apply to the county counsel's office. Individual representatives of that office may represent the assessor and the county board of equalization, *as long as the same individual does not represent both parties.*”

(emphasis added). Section 31000.7 is incorporated by reference in County of Santa Clara Assessment Appeals Board Local Rules, Rule 301(I) (Audit Report, page 1.19.) and is further clarified in the Proposed Updated Local Rules that were agendaized to be considered by the Finance and Government Operations Committee in June 2015, and which were held to be heard in August 2015.

Recommendation 3.3:

Evaluate whether the creation of “specialized” assessment appeals boards is a legal, desirable, and workable solution for the County's assessment appeals process. If it is permitted, the Board of Supervisors should determine what form the system should take and subsequently codify it in the County's statutes and policies.

Response to 3.3:

Disagree. The establishment of specialized assessment appeals boards may diminish the equality of the three Assessment Appeals Boards by aggregating the most experienced and technically qualified members on the Board that hears the most complex appeals. Also, the process required to implement specialized assessment appeals boards may cause significant confusion in the structuring of the boards and in the ongoing administration of assessment appeals and would not address the underlying concern.

Recommendation 6.5:

Update the Local Rules to clarify standards and reflect current practices. Specific attention should be given to:

- a) the County's practice for keeping official, signed minutes for all assessment appeals-related hearings, in consultation with the Clerk of the Board.
- b) the Clerk's ability to address requests for reinstatement based upon established guidelines for timeliness and supporting evidence.
- c) the rules of procedure for pre-hearing conferences; and
- d) the inclusion of Appearance-Not-Timely Confirmed, or Non-value, status, with clarifying language regarding consequences for non-response to the County's hearing confirmation notices.

Memorandum to Roger Mialocq, Management Audit Division
Re: Office of the County Counsel's Response to the Management Audit Division's Audit Report
of the County of Santa Clara Assessment Appeals Process
June 19, 2015
Page 5 of 5

Response to 6.5:

Partially agree. Proposed Updated Local Rules were prepared and submitted for consideration by the Finance and Government Operations Committee in June 2015, but have been held to be heard by the Committee in August 2015.

Regarding Recommendations 6.5 b), c), and d), the Proposed Updated Local Rules address the Clerk's authority in responding to timely requests for reinstatement, the rules of procedure for pre-hearing conferences, and the procedure for appearance-not-timely confirmed. Regarding Recommendation 6.5a), the Proposed Updated Local Rules do not specifically address the County's practice for keeping official, signed minutes for all assessment appeals-related hearings, but do require the electronic recording of proceedings.

Attachments:

- 1) Attorney I – County Counsel Job Description
- 2) Attorney II – County Counsel Job Description
- 3) Attorney III – County Counsel Job Description
- 4) Attorney IV – County Counsel Job Description

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Attorney I - County Counsel

Class Code:
U32

Bargaining Unit: County Counsel Attorneys'
Association

COUNTY OF SANTA CLARA
Established Date: Oct 24, 1960
Revision Date: Nov 17, 2009

SALARY RANGE

\$48.76 - \$51.20 Hourly
\$3,900.72 - \$4,096.16 Biweekly
\$8,451.56 - \$8,875.01 Monthly
\$101,418.72 - \$106,500.16 Annually

DEFINITION:

Under direction, performs professional legal work in the Office of the County Counsel to represent and advise the Board of Supervisors, County officers and departments and certain other public entities on legal issues; represent County agencies in a variety of civil matters; assist in drafting and/or negotiating contracts, leases, ordinances, resolutions and other legal documents.

DISTINGUISHING CHARACTERISTICS:

Attorney I-County Counsel is characterized as the entry and trainee level for attorneys without previous legal experience. Incumbents at this level are generally assigned a variety of less difficult assignments under close supervision.

TYPICAL TASKS:

- Represents and advises one or more County department, board, committee, or County officer and employees on legal issues regarding their powers, functions, jurisdiction, procedures, obligations and operations;
- Performs legal research on a variety of legal issues pertaining to the interests of the County;
- Studies, interprets, and applies laws, court decisions, and other legal authorities in preparing contracts, pleadings, ordinances, resolutions, memoranda, and opinions;
- Attends meetings of boards, commissions or other committees to give legal advice;
- Litigates in both Federal and State Courts;
- Assists departments and other contacts in preparing documents, such as labor contracts and agreements;
- May be assigned as Disaster Service Worker, as assigned;
- Performs other duties as required.

EMPLOYMENT STANDARDS:

Knowledge and abilities consistent with the highest standard of the legal profession and with the level of difficulty and expertise required for the intended appointment.

Membership in the California State Bar is required, prior to appointment. Active membership in good standing of the California State Bar must be maintained throughout employment.

Knowledge of:

- Federal, State, and local laws, ordinances, codes and regulations applicable to the assigned responsibility;
- Trial and hearing practices, procedures and rules of evidence;
- Legal research methods, practices, and techniques;
- General office practices and procedures, such as record keeping practices.

Ability to:

- Perform legal research;
- Analyze and apply legal principles and facts to legal issues;
- Analyze situations accurately and recommend an effective course of action;
- Exercise good judgment and make sound decisions on legal cases and in dealing with people;
- Monitor current and proposed legislation relating to assigned responsibility;
- Write comments or arguments appropriately within a political and sensitive environment;
- Establish and maintain effective working relationships with clients and colleagues in the performance of required duties.



Attorney II - County Counsel

Class Code:
U31

Bargaining Unit: County Counsel Attorneys'
Association

COUNTY OF SANTA CLARA
Established Date: Oct 24, 1960
Revision Date: Nov 17, 2009

SALARY RANGE

\$57.17 - \$62.10 Hourly
\$4,573.84 - \$4,967.84 Biweekly
\$9,909.99 - \$10,763.65 Monthly
\$118,919.84 - \$129,163.84 Annually

DEFINITION:

Under direction, performs professional legal work in the Office of the County Counsel to represent and advise the Board of Supervisors, County officers and departments and certain other public entities on legal issues; represent County agencies in a variety of civil matters; assist in drafting and/or negotiating contracts, leases, ordinances, resolutions and other legal documents.

DISTINGUISHING CHARACTERISTICS:

Attorney II-County Counsel is characterized as the full working level assigned all phases of legal work of average difficulty under general supervision.

TYPICAL TASKS:

- Represents and advises one or more County department, board, committee, or County officer and employees on legal issues regarding their powers, functions, jurisdiction, procedures, obligations and operations;
- Performs legal research on a variety of legal issues pertaining to the interests of the County;
- Studies, interprets, and applies laws, court decisions, and other legal authorities in preparing contracts, pleadings, ordinances, resolutions, memoranda, and opinions;
- Attends meetings of boards, commissions or other committees to give legal advice;
- Litigates in both Federal and State Courts;
- Assists departments and other contacts in preparing documents, such as labor contracts and agreements;
- May be assigned as Disaster Service Worker, as assigned;
- Performs other duties as required.

EMPLOYMENT STANDARDS:

Knowledge and abilities consistent with the highest standard of the legal profession and with the level of difficulty and expertise required for the intended appointment.

Membership in the California State Bar and active membership in good standing must be maintained throughout employment.

AND

One (1) year experience as an attorney in the full time practice of law.

Knowledge of:

- Federal, State, and local laws, ordinances, codes and regulations applicable to the assigned responsibility;
- Trial and hearing practices, procedures and rules of evidence;
- Legal research methods, practices, and techniques;
- General office practices and procedures, such as record keeping practices.

Ability to:

- Perform legal research;
- Analyze and apply legal principles and facts to legal issues;
- Analyze situations accurately and recommend an effective course of action;
- Exercise good judgment and make sound decisions on legal cases and in dealing with people;
- Monitor current and proposed legislation relating to assigned responsibility;
- Write comments or arguments appropriately within a political and sensitive environment;
- Establish and maintain effective working relationships with clients and colleagues in the performance of required duties.



Attorney III - County Counsel

Class Code:
U28

Bargaining Unit: County Counsel Attorneys'
Association

COUNTY OF SANTA CLARA
Established Date: Oct 24, 1960
Revision Date: Nov 17, 2009

SALARY RANGE

\$68.31 - \$75.31 Hourly
\$5,464.80 - \$6,024.72 Biweekly
\$11,840.40 - \$13,053.56 Monthly
\$142,084.80 - \$156,642.72 Annually

DEFINITION:

Under direction, performs professional legal work in the Office of the County Counsel to represent and advise the Board of Supervisors, County officers and departments and certain other public entities on legal issues; represent County agencies in a variety of civil matters; assist in drafting and/or negotiating contracts, leases, ordinances, resolutions and other legal documents.

DISTINGUISHING CHARACTERISTICS:

Attorney III-County Counsel is characterized as the advanced working level consistently assigned difficult and complex civil cases or civil legal work under minimum direction.

TYPICAL TASKS:

- Represents and advises one or more County department, board, committee, or County officer and employees on legal issues regarding their powers, functions, jurisdiction, procedures, obligations and operations;
- Performs legal research on a variety of legal issues pertaining to the interests of the County;
- Studies, interprets, and applies laws, court decisions, and other legal authorities in preparing contracts, pleadings, ordinances, resolutions, memoranda, and opinions;
- Attends meetings of boards, commissions or other committees to give legal advice;
- Litigates in both Federal and State Courts;
- Assists departments and other contacts in preparing documents, such as labor contracts and agreements;
- May be assigned as Disaster Service Worker, as assigned;
- Performs other duties as required.

EMPLOYMENT STANDARDS:

Knowledge and abilities consistent with the highest standard of the legal profession and with the level of difficulty and expertise required for the intended appointment.

Membership in the California State Bar and active membership in good standing must be maintained throughout employment.

AND

Three (3) years experience as an attorney in the full time practice of law.

Knowledge of:

- Federal, State, and local laws, ordinances, codes and regulations applicable to the

assigned responsibility;

- Trial and hearing practices, procedures and rules of evidence;
- Legal research methods, practices, and techniques;
- General office practices and procedures, such as record keeping practices.

Ability to:

- Perform legal research;
- Analyze and apply legal principles and facts to legal issues;
- Analyze situations accurately and recommend an effective course of action;
- Exercise good judgment and make sound decisions on legal cases and in dealing with people;
- Monitor current and proposed legislation relating to assigned responsibility;
- Write comments or arguments appropriately within a political and sensitive environment;
- Establish and maintain effective working relationships with clients and colleagues in the performance of required duties.



Attorney IV - County Counsel

Class Code:
U27

Bargaining Unit: County Counsel Attorneys'
Association

COUNTY OF SANTA CLARA
Established Date: Oct 24, 1960
Revision Date: Nov 17, 2009

SALARY RANGE

\$83.04 - \$103.35 Hourly
\$6,643.28 - \$8,268.32 Biweekly
\$14,393.77 - \$17,914.69 Monthly
\$172,725.28 - \$214,976.32 Annually

DEFINITION:

Under direction, performs professional legal work in the Office of the County Counsel to represent and advise the Board of Supervisors, County officers and departments and certain other public entities on legal issues; represent County agencies in a variety of civil matters; assist in drafting and/or negotiating contracts, leases, ordinances, resolutions and other legal documents.

DISTINGUISHING CHARACTERISTICS:

Attorney IV-County Counsel is characterized as the highly advanced working level which requires an advanced degree of knowledge of legal processes and comprehension of the application of the law in handling complex, unusual and unique legal problems or cases of an exacting, demanding, or policy making nature. Attorneys at this level exercise considerable judgment and work independently.

TYPICAL TASKS:

- Represents and advises one or more County department, board, committee, or County officer and employees on legal issues regarding their powers, functions, jurisdiction, procedures, obligations and operations;
- Performs legal research on a variety of legal issues pertaining to the interests of the County;
- Studies, interprets, and applies laws, court decisions, and other legal authorities in preparing contracts, pleadings, ordinances, resolutions, memoranda, and opinions;
- Attends meetings of boards, commissions or other committees to give legal advice;
- Litigates in both Federal and State Courts;
- Assists departments and other contacts in preparing documents, such as labor contracts and agreements;
- May be assigned as Disaster Service Worker, as assigned;
- Performs other duties as required.

EMPLOYMENT STANDARDS:

Knowledge and abilities consistent with the highest standard of the legal profession and with the level of difficulty and expertise required for the intended appointment.

Membership in the California State Bar and active membership in good standing must be maintained throughout employment.

AND

Five (5) years experience as an attorney in the full time practice of law.

Knowledge of:

- Federal, State, and local laws, ordinances, codes and regulations applicable to the assigned responsibility;
- Trial and hearing practices, procedures and rules of evidence;
- Legal research methods, practices, and techniques;
- General office practices and procedures, such as record keeping practices.

Ability to:

- Perform legal research;
- Analyze and apply legal principles and facts to legal issues;
- Analyze situations accurately and recommend an effective course of action;
- Exercise good judgment and make sound decisions on legal cases and in dealing with people;
- Monitor current and proposed legislation relating to assigned responsibility;
- Write comments or arguments appropriately within a political and sensitive environment;
- Establish and maintain effective working relationships with clients and colleagues in the performance of required duties.

County of Santa Clara

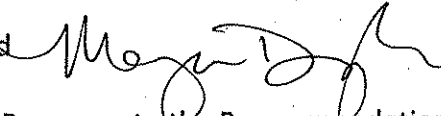
Office of the Clerk of the Board of Supervisors

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110-1770
(408) 299-5001 FAX 938-4525 TDD 993-8272
Web site: <http://www.sccgov.org/portal/site/cob/>



Megan Doyle
Clerk of the Board

TO: The Management Audit Division of the Board of Supervisors

FROM: Megan Doyle, Clerk of the Board 

RE: Office of the Clerk of the Board Response to the Recommendations of the Management Audit of the County of Santa Clara Assessment Appeals Process

DATE: June 22, 2015

The Office of the Clerk of the Board (COB) takes pride in providing quality and efficient service to our diverse customers. We are committed to fulfilling our duties and responsibilities, and strive to improve our processes and procedures to increase efficiencies. Attached is our list of accomplishments and activities highlighting some of our major efforts and successes by the Assessment Appeals Unit.

We appreciate the opportunity to respond to your recommendations. We are also pleased and thankful for the continued collaboration with the Assessment Appeals Board, Assessor's Office (ASR), County Counsel's Office, and Tax Collector's Office (TCO) for continued services in the management of assessment appeals.

Recommendation 3.1: The Assessor and Clerk of the Board should introduce new controls to ensure relative equity in the number, type, and value of appeals heard by assessment appeals boards, including regular tracking of appeal distribution.

Response: We agree with this recommendation.

Recommendation 3.2: The ASR and COB should adopt a transition plan to transfer primary scheduling functions from the ASR's Office to the COB. Following the expected introduction of new software with increased technical capabilities in 2016, administrative procedures should be amended to require the COB to establish assessment appeals board agendas based on receipt of a "notice of readiness" from the ASR's Office for each appeal. Appeals should then be uniformly distributed among the

three hearing boards. This amendment should be submitted to the Board of Supervisors for approval amending the County's Local Rules in the County Ordinance Code.

Response: We agree with this recommendation.

Additional Response to Recommendations 3.1 and 3.2: COB and ASR are discussing possible and efficient ways to implement both recommendations within the existing appeals system in the legacy Assessor's Information Management Systems (AIMS). It would require manual efforts since any programming enhancements to the system are no longer possible. As part of initiating the transition of scheduling, we are looking at the opportunity of scheduling the hearing of Real Property Residential/Regular Assessment/Decline in Value (Prop 8) appeals that will be filed starting July 2, 2015. This type of appeals will be scheduled by COB with the value hearing officers; and with the three boards, if necessary. Implementation of the scheduling transition to include Real Property Commercial and Business Property appeals within the existing appeals system would be a tremendous challenge. These types of appeals are more complex, typically take longer than two years to resolve, and involve numerous associated appeals affecting multi-tax years. Full implementation of the scheduling transition is expected and will be realized with the acquisition of a new appeals system with modern software and increased technical capabilities. The new appeals system is targeted to launch within a year. It is anticipated that the transition of primary scheduling functions from ASR to COB would necessitate additional staff members in COB.

Recommendation 3.3: Evaluate whether the creation of "specialized" assessment appeals boards is a legal, desirable, and workable solution for the County's assessment appeals process. If it is permitted, the Board of Supervisors should determine what form the system should take and subsequently codify it in the County's statutes and policies.

Response: We disagree with this recommendation. The three boards were created equal and each of the three members on each board is qualified to adjudicate all types of appeals and issues. Having a "specialized" assessment appeals boards is counterintuitive to achieving equality and balance in the number and types of appeal heard by the three boards.

Recommendation 4.1: The COB should reorganize assessment appeals website content and links thematically, and add the appropriate level of jargon-free descriptive information for relevant topics to make a more user-friendly experience. The Los Angeles County website can provide a model for a front-page navigation site. The site should seek to track the assessment appeals process as it would appear to an appellant as closely as possible.

Response: We agree with this recommendation.

Recommendation 4.2: Evaluate the creation of public information seminars or workshops, modeled on the counties of Los Angeles and Orange. These events could be incorporated into existing COB responsibilities, as observed in comparable California

counties. Alternatively, the COB should evaluate the production of instructional videos, posted on the website.

Response: We agree with this recommendation.

Recommendation 4.3: Update Notice of Hearings to include designated public contacts, identified by position title only, as well as copy requirements for evidence on the first page of the notice, under "Required".

Response: We agree with this recommendation.

Recommendation 5.1: The Clerk of the Board should update the County's website to state language access policies, and clearly specify where LEP residents may find additional resources, such as the State Board of Equalization (SBE) website.

Response: We agree with this recommendation. Updates to the assessment appeals website clarifying directions to the SBE website for additional resources in multiple languages will be implemented immediately. Currently, we direct applicants to SBE's website where Publication 30, a document to assist appeals applicants in understanding the appeal process and prepare for hearing, is available in Chinese, Korean, Spanish and Vietnamese languages. Research to identify other additional resources for LEP residents is underway.

Recommendation 5.2: Update instructions on the County's application for reduced assessment to clarify the County's language access policies, including the availability of translation services, and provide a place on the application for appellants to indicate whether language assistance is needed, and if so, in what language.

Response: We partially agree with this recommendation. SBE has to approve all changes to the application form and instructions sheet. However, we are committed to updating any informational materials produced by COB and we will ensure that the materials will be in conformance with the County's language access policies.

Additional Response to Recommendations 5.1 and 5.2: COB is working on its language access implementation plan pursuant to the recently approved County Language Access Policy. The implementation plan will encompass all service units, including translation services for LEP customers via telephone, at the reception desk, and at appeals hearings. Once developed, the COB website will be updated to reflect COB's language access policies. We will further incorporate the County's language access policy into the entire COB website as part of the website redesign agreed to in 4.1.

Recommendation 6.1: The Clerk of the Board should consider eliminating the practice of recording meeting minutes from Assessment Appeals hearings, and ensure that relevant data from meetings is maintained in AIMS or future information systems.

Response: We agree with this recommendation.

Recommendation 6.2: The Clerk of the Board, working with the Assessor's Office and three Assessment Appeals Boards, should update existing policies and procedures regarding assessment appeals to reflect current practices and collect them in a single policy manual. Specific attention should be given to:

- a) Specifying the same deadline for hearing confirmation and postponement requests, following the practice in other counties.
- b) Adopting policy guidelines for special hearings, including their purpose and when they are appropriate.

Response: We agree with this recommendation.

Recommendation 6.3: Establish guidelines for continuances, including regular tracking of continuances, and assess how to limit non-essential continuance requests.

Response: We agree with this recommendation.

Recommendation 6.4: Adopt procedures for keeping records of private deliberations that fall on non-hearing days, and establish appropriate stipend controls. Record the date and time of value decisions made during private deliberations that occur on non-hearing days.

Response: We agree with this recommendation.

Comments on Additional Requested Analysis of Application Fee Refunds

We would like to provide clarification on the cost estimate described on page 12 of the audit. We believe that the numbers used were based on the August 14, 2014 memo from COB to FGOC (legislative file no. 72764). The actual cost for generating each refund based on the current process and additional complexities in the County e-payment system has increased from \$15.76 to \$33.89. This brings the total negative impact to the General Fund to \$277,900.29 (\$127,460.29 for \$33.89 x 3,761 "prevailed" appeals that resulted in reduced assessments, plus \$150,440 for \$40 filing fee refund x 3,761). The \$33.89 represents the total cost/fully loaded calculation, including salaries and benefits. Background information is included in the October 16, 2014 memo from COB to FGOC (legislative file no. 73588).

Attachment: List of accomplishments and activities by the Assessment Appeals Unit for the time period 2009-2014

County of Santa Clara

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Megan Doyle
Clerk of the Board

List of Accomplishments and Activities by the Assessment Appeals Unit

The following list of accomplishments and activities by the Assessment Appeals Unit in the Office of the Clerk of the Board (COB) is for the time period 2009 – 2014:

- Received and processed the following number of assessment appeal applications:
 - 5,951 in FY 2013/14
 - 8,174 in FY 2012/13
 - 9,499 in FY 2011/12
 - 10,042 in FY 2010/11
 - 12,646 in FY 2009/10
- In collaboration with Information Services Department (ISD) and Assessor's Office (ASR), introduced online filing and payment of assessment appeals application, auto-providing applicants their appeal numbers and confirmation of filing, reducing staff data entry/scanning time and applicants' application completion errors, number of attachments prints on the form, reduced credit card fee from \$3.95 - \$1.00 per application (2013, 2014)
- Enhanced search capability in documents repository in SharePoint via Beta Search and increased efficiencies in appeals record search in response to Record Requests and preparation of Administrative Record (2014)
- Increased customer service by implementing courtesy telephone calls or e-mails to applicants one week prior to deadline for edit response, and decreased the number of appeals that are closed and reopened (2014)
- Software sharing agreement for COB portal, providing Tax Roll Control (TRC) staff better research tools (2014)
- Initiated process mapping project in late 2014 and developed 14 process maps to date

- In FY 2013-14:
 - Served 3,726 customers by telephone
 - 1,400 customers in-person
 - Scanned and filed 47,5387 assessment appeals documents
 - Processed 25,327 notices and documents to customers related to assessment appeals application corrections and hearing status
 - Processed 7,390 assessment appeal hearing agenda items
 - Held 67 Assessment Appeals Hearings (regular, special, legal, & value hearing) and deliberations
 - Processed 28 Records Requests, including 2 voluminous Administrative Record Requests

- Better clarified hearing attendance information on hearing notices, and designed and printed “Time Sensitive – Response Required” envelopes (2013)
- Developed with TRC protocol for electronic sharing of changed assessment information – the AAB-TRC portal (2013)
- Software sharing agreement for Tax Collection and Apportionment System (TCAS), adding to research tools of appeal staff (2013)
- Conversion of all incoming phone calls to appeals hotline to be electronic .wav files, giving staff the option to answer calls or return multiple calls at one time, and preserving a record of voicemails (2012)
- Introduction in FY 2009/10 of the Value Hearing Officer program -- 6,909 appeals have been scheduled and resolved sooner than if scheduled with the three-member boards
- Programming in SharePoint for form letters to be uploaded automatically to the server, eliminating the need for staff to scan letters (2011)
- Conversion of all incoming faxes to e-fax PDFs (2011)
- Reinitiated in 2015 acquisition process for new Assessment Appeals system for target launch date of July 2, 2016
- Created 14 process maps and updated 29 written procedures