

LOCAL RULES OF THE ASSESSMENT APPEALS BOARD
COUNTY OF MADERA, STATE OF CALIFORNIA
(REVISED VERSION, JUNE 1, 2017)
ORDER NO. C-4

1. Applicability of rules; Governing law. These Local Rules are enacted pursuant to Section 2.96.110 of the Madera County Code. They shall supplement the rules of procedure contained in Chapter 2.96 of the Madera County Code (the "MCC"), Revenue and Taxation Code § 1601 et seq. and Title 18 of the California Code of Regulations (Property Tax Rules), and shall apply to all meetings and hearings of the Assessment Appeals Board of the County of Madera, including prehearing conferences and any hearings before hearing officers pursuant to Revenue and Taxation Code §1636 et seq., should hearing officers be appointed.

2. Definitions. The definitions below shall govern the construction of the terms as used in these rules:

- a. "County" means the County of Madera.
- b. "Board" means the Assessment Appeals Board of the County of Madera.
- c. "Assessor" means the Madera County Assessor's Office.
- d. "Legal Advisor" means the attorney from the Madera County Counsel who advises and represents the Board.
- e. "Chair" is the chair of the Board.
- f. "Clerk" is the Clerk of the Board of Supervisors, sitting as Clerk of the Assessment Appeals Board.
- g. "Applicant" means the person affected who has filed an application for changed assessment.
- h. "Party" means the applicant or the Assessor, and shall also include authorized representatives of the applicant or the Assessor, including attorneys and appraisers.
- i. "Person" means an individual human being, a partnership, limited liability company, corporation, association, or other entity.
- j. "Evidence" shall include documents, recordings, and oral testimony intended to provide factual support for proving a position.
- k. "Complex appeals" are those hearings in which the property that is the subject of appeal is assessed at Thirty Million Dollars (\$30,000,000) or more in any year under appeal.

Pre-hearing conferences.

- a. Provided that applicable hearing fees have been paid by the Applicant as required by Section 3.05.030 of the MCC, the Clerk shall schedule a pre-hearing conference for an appeal no later than thirty (30) days prior to the scheduled hearing on that appeal. The Clerk shall mail written notice of the conference to the Applicant, the Assessor, and the Legal Advisor no less than thirty (30) days before the conference, unless the Applicant and Assessor stipulate orally or in writing to a shorter period.
- b. The Applicant and Assessor may bring their respective counsel and appraisers to participate in the conference.
- c. If a party is unable to appear at the scheduled date and/or time for the conference, or wishes to waive the conference and submit its documents separately, that party shall notify the Clerk or the Legal Advisor, not less than seven (7) days before the conference, to arrange a different date or time, and shall also have the duty to notify the other party of its intentions.
- d. The Legal Advisor or his designee may attend the conference, and shall attend the pre-hearing conference for complex appeals, but the Legal Advisor shall not be regarded or participate as a hearing officer.

4. Revenue and Taxation Code § 1606 evidence exchanges; presumption of inadmissibility for untimely introduction of documents.

- a. All parties shall comply with requests for exchange of information under section 1606 of the Revenue and Taxation Code, unless both parties stipulate in writing to waiving their rights of request and exchange. Whenever possible, both parties should initiate the exchange of information before the pre-hearing conference.
- b. If one party does not provide written information as to its opinion of value and underlying methodology upon request under Revenue and Taxation Code section 1606, and then seeks to submit written evidence as to value and methodology at the scheduled hearing, that party is presumed to be willfully noncompliant under title 18, section 305.1(d) of the California Code of Regulations.
- c. If the non-complying party cannot rebut the presumption of willful noncompliance by proving that the documents to be submitted are “new material relating to information received from the other party” regarding opinion of value and methods for calculation as per title 18, section 305.1(c) of the California Code of Regulations, it shall not submit any written evidence as to opinion of value and underlying methodology at the hearing, and shall only comment on the other party’s evidence.

5. Marking and copying of exhibits.

- a. The parties shall serially pre-mark for identification each item of documentary evidence to be introduced, with the Applicant's exhibits numbered "1", "2" and so on, and the Assessor's exhibits to be lettered "A," "B" and so on. All documents submitted in an exchange of information under Revenue and Taxation Code section 1606 shall be marked for identification before the exchange. All other documents shall be marked before the hearing.
- b. Each party shall submit to the Clerk the original exhibit(s) and four (4) copies of each pre-marked exhibit, with the Clerk to distribute three (3) copies to the Board members, and one copy to the Legal Advisor. For documents submitted in an exchange of information under Revenue and Taxation Code section 1606, each party shall send a copy of the documents directly to the other party, in addition to the original document(s) and four (4) copies to the Clerk; in all other circumstances, the parties shall provide the original and five (5) copies of each document to the Clerk.
- c. No exhibit shall be delivered to the members of the Board or considered as part of the record before it is marked for identification or introduced into evidence at the hearing. A majority of the Board members may vote to waive this provision, in any appeal, if deemed appropriate.

6. Transcripts and recording. All hearings shall be recorded electronically by the Clerk, and the recording shall be the official record of the proceedings and be made available for listening and copying on request of any party. If a party provides a court reporter for the hearing, the Board may order that the reporter's transcript serve as the official record in lieu of the Clerk's recording, and the party that provided the court reporter shall provide the transcript to the Board at that party's own expense.

7. Conduct of hearing; time limits. The hearing shall be ordered as follows:

- a. The Clerk shall swear in all witnesses at the start of the hearing.
- b. Both parties shall have the option of presenting an opening statement not to exceed five minutes each. The party with the burden of proof shall present its opening statement first, but cannot split its time to precede and follow the opposing party's statement.
- c. When the opening statements are finished, the party with the burden of proof shall call its witnesses and introduce evidence. When the party with the burden of proof has finished presenting its witnesses and evidence, the opposing party may present its witnesses and evidence in the same manner. All witnesses shall be available for cross-examination at a minimum, but may also be subject to further questioning (redirect and re-cross examination) in the parties' discretion. Members of the Board may ask questions at any time.

- d. The Chair shall exercise such control over the questioning of the witness so as to ensure rapid and distinct questioning that elicits truth and protects the witness from undue harassment or embarrassment.
- e. When a witness is excused, he or she may be recalled only once for rebuttal of the opposing party's evidence.
- f. After both sides have finished calling witnesses, both parties may present rebuttal.
- g. After rebuttal is complete, each party may provide a closing argument, not to exceed ten minutes. The party with the burden of proof may split its ten minutes to open and close the period of closing argument. Once closing argument is complete, the Board may announce its decision at the conclusion of the hearing, or take the matter under submission. Deliberation may be conducted in closed session at a later date until a decision of value is reached.
- h. Each side shall have a maximum of three (3) hours to present its witnesses and evidence, including rebuttal testimony, opening statement, and closing argument. Either party may file a written motion with the Clerk no later than fourteen (14) days in advance of the hearing to request an additional hour per party, but no additional time may be granted except by unanimous vote of the Board at the start of the hearing. This time limit shall apply to appeals in which all items of real and personal property are assessed at less than thirty million dollars (\$30,000,000) per appeal in any year under appeal. All other appeals shall be subject to Rule 9.
- i. Requests for written findings of fact shall be submitted before the end of the hearing, or else shall be deemed waived. If requested, applicable fees required by Section 13.05.030 of the MCC must be paid before the close of the hearing.

8. Rules of evidence.

- a. Only relevant evidence is admissible. Any relevant evidence may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely.
- b. The hearing shall not be conducted according to technical rules of evidence. The Board shall not recognize objections on the grounds of hearsay, best or secondary evidence, opinion, calling for speculation, assuming facts not in evidence, calling for narrative answers, and authentication.
- c. Failure to timely object to evidence introduced shall be a waiver of the objection.

- d. The Chair shall make the final determination as to admissibility of evidence.

9. Special rules for complex appeals.

- a. Complex appeals shall be governed by all of these rules, excepting the regular three-hour time limit of Rule 7(H).
- b. For complex appeals, the time limit shall be four (4) hours per side for all parcels and years on appeal combined, including rebuttal testimony, opening statement, and closing argument. Either party may file a written motion with the Clerk no later than fourteen (14) days in advance of the hearing to request two (2) additional hours per party, but no additional time may be granted except by unanimous vote of the Board at the start of the hearing.
- c. At the pre-hearing conference, both parties shall provide written statements to the Legal Advisor, which shall contain: estimates of time per side; appraisal issues; applications for the issuance of subpoenas, if any; and whether exchanges of information have been requested. The Legal Advisor, following the pre-hearing conference, shall forward the pre-hearing statements to the Clerk for distribution to the Board. If a party so designates, its written statement may be considered a motion for additional time as provided in subsection b., above.

10. Notice to be provided; when time begins to run. Where notice by the Board, the Clerk, or the Legal Counsel is required by the Revenue and Taxation Code, the Property Tax Rules, or these Rules, for purposes of computing the period within which notice must be given, there shall be a rebuttable presumption that the notice was given on the date indicated on the face of the notice.

11. Rules available to public; paper copies and Internet. Copies of these Local Rules, together with a copy of the Property Tax Rules, shall be kept on file in the Clerk's Office and made available to the public for inspection and copying during regular business hours. The Clerk shall also request that a copy of the Local Rules be posted on the County website.

12. Lack of appearance by applicant or agent; period for reconsideration.

- a. If the applicant or his/her agent does not participate in an exchange of information pursuant to Revenue and Taxation Code section 1606, when such exchange is initiated by the Assessor, and does not appear at the prehearing conference (without first notifying the Clerk or Legal Counsel), and does not appear at the hearing or submit a timely request for postponement or continuance, the application shall be denied with prejudice and no reconsideration shall be allowed. If the applicant or his/her agent either participates in an exchange of information or appears at the prehearing conference, but does not appear at the hearing or submit a timely request for postponement or continuance, then the

application is denied without prejudice and may be appealed only as provided in subsection b., below.

- b. The applicant or agent shall have fifteen (15) calendar days from the date of mailing of the notification of denial due to lack of appearance to file a written request for reconsideration that shall provide evidence of good cause for the failure to appear or the failure to make a timely request for postponement. The request for reconsideration shall also contain a stipulation to waive the two-year limitation period of Revenue and Taxation Code section 1604. No request for reconsideration will be heard by the Board unless the applicant stipulates in writing to a waiver of the limitation period. The two-year limitation period shall be tolled during the period allowed herein for reconsideration. Denial of a request for reconsideration shall not revoke or nullify the stipulation to waive the limitation period. The request for reconsideration and stipulation to waive time shall be heard by the Board at a regularly scheduled hearing held the month after the denial of the application for failure to appear.
- c. If the applicant or agent does not timely file a request for reconsideration, the denial of the appeal shall become final and shall not be subject to further appeal or hearing before the Board. The Clerk shall then send a notice of final denial to the applicant.

13. Procedure for receiving applications for changed assessment; review for completeness.

- a. All applications for changed assessment shall be collected by the Clerk, assigned appeal numbers, and presented to the Assessor for review as to whether the applications are complete.
- b. If the Assessor finds that an application does not contain all of the information required by Title 18, section 305(c)(1) of the California Code of Regulations, the Assessor shall notify the Clerk in writing as to why the application is incomplete.
- c. Upon receipt of written notification from the Assessor that an application is incomplete, the Clerk shall give prompt written notice to the applicant and, where applicable, the applicant's agent, which lists the error on the application.
- d. All disputes regarding the validity of an application shall be presented to the Board in open session. Hearing on these disputes may be conducted before the hearing as to the validity or correctness of the assessment itself. A hearing on any dispute regarding the validity of an application shall not be considered a hearing on the merits, a request for postponement or continuance, or a tolling or waiver of the two-year limitation period of Revenue and Taxation Code section 1604.