ASSESSMENT APPEALS BOARD

OF THE

COUNTY OF MONO

LOCAL RULES

Approved by the Assessment Appeals Board

On August 20, 2020

Adopted by the Board of Supervisors

On March 16, 2021

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I. ASSESSMENT APPEALS OVERVIEW

A. **Property Valuation Process** The Board of Supervisors for each county in California also serves as the local Board of Equalization with authority to equalize the valuation of taxable property within the county by adjusting individual assessments. In Mono County, the Board of Supervisors has delegated this authority to the Assessment Appeals Boards.

The value of property is determined by the Assessor and, on that basis, the Treasurer-Tax Collector bills and collects property taxes from property owners. When the property owner disagrees with assessed value for a property, she should initially:

1) Contact the Assessor's office to obtain additional information about the valuation process and/or provide additional, pertinent information about the property's value;

2) Request revaluation of the property.

If the property owner and Assessor cannot reach an agreement, the property owner can appeal the valuation to the Mono County Assessment Appeals Board. The Board hears and resolves property valuation disputes between the Assessor and property owners in order to ensure the equitable Application of property taxes within the County.

B. **Purpose of Local Rules** Many aspects of the property valuation and appeal process are prescribed by state law (Section C of this rule, below). Local Boards of Equalization are authorized to adopt Local Rules to facilitate their work and ensure uniformity in the processing and deciding of appeals. These Rules do not claim or attempt to reiterate the state laws and regulations governing the property valuation process. Rather, they provide information specific to the scheduling and hearing of cases within Mono County. To the extent they conflict with higher legal authority, they are invalid.

C. **Legal Authority** The Board, the Assessor and the Applicant follow state rules governing the local equalization process.

1) The California Constitution authorizes the creation of one or more county boards for the purpose of equalizing assessments of individual properties and briefly describes their function of equalizing values on the local roll.

2) The Revenue and Taxation Code implements the constitutional provisions applicable to assessment appeals and other property tax matters and provides the basic framework of the assessment appeals process.

3) The California Code of Regulations includes provisions, commonly referred to as the Property Tax Rules, pertaining to the role and function of Assessment Appeals Boards.

4) The Board cannot:

   a) Grant or deny exemptions or consider whether exemptions were improperly denied;

   b) Raise or lower the entire assessment roll;

   c) Extend the time for filing Applications for equalization;

   d) Remove or waive penalties for delinquent payment of taxes;

   e) Reduce an assessment due to damage, destruction or depreciation after the lien date of the year in question;

   f) Change tax rates.

The Board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing. The Board has no legislative power. These Local Rules are enacted pursuant to Mono County Resolution No. ___________.

D. **Access to Local Rules** These Local Rules are maintained by the Mono County Clerk's Office, located at 74 N. School Street, Annex I, Bridgeport, CA, 93517, and can be accessed via the Clerk's website, which is located on the internet at: http://www.monocounty.ca.gov/departments/Clerk/AssessmentAppeal.html. Copies of these Local Rules are also available for review at the Clerk's Office during regular business hours and may be purchased in person or by mail for an amount established by applicable law.

E. **Definitions** For purposes of these Local Rules, the following capitalized words shall have the meanings as set forth below:

1) Applicant: A person or entity affected, the parent, child, or spouse of a person affected, or his or her duly authorized agent, who files an Application for Changed Assessment.

2) Application: Form entitled "Application for Changed Assessment" used for the filing of an Assessment Appeal.

3) Assessor: The elected Assessor of Mono County.

4) Assessment Appeal: A formal request for a change in a real property tax assessment made to the Board pursuant to Revenue and Taxation Code § 1601 et. seq.

5) Assessed Value: The property value, established by the Assessor using one or more appraisal techniques and/or methods, against which the tax rate is applied.

6) Assessor's Parcel Number or A.P.N.: The Assessor's parcel number assigned to identify every parcel of real property in the County. The A.P.N. will appear on all correspondence received from the Assessor relating to that particular property parcel.

7) Authorized Agent: A California licensed attorney retained by the Applicant for the

Assessment Appeal, or a parent, child, or spouse of the Applicant, or any other person with the Applicant's express written authority to represent the Applicant for the appeal.

8) Base Year Value: Fair market value as of either the 1975 lien date or the date the property was most recently purchased, newly constructed, or last underwent a change in ownership.

9) Board: The Mono County Assessment Appeals Board, also known as the AAB, including appointed alternates.

10) Chair: The Chair of the Mono County Assessment Appeals Board.

11) Clerk: The Clerk of the Mono County Assessment Appeals Board.

12) Cross-examination: The interrogation of a witness called by the opposing party to testify during a hearing. It is preceded by direct examination and may be followed by a redirect examination.

13) Continuance: The stopping of a hearing, after the taking of some evidence by the Board, such that the hearing is resumed where it left off on another day. The same Board members must hear said continued matters.

14) County: The County of Mono.

15) Day: A calendar day, unless otherwise specified as a "business day".

16) Direct-examination: The questioning of a witness by the party who called him or her to testify in a hearing. Direct examination is usually performed to elicit evidence in support of facts that will help prove a party's claim or defense.

17) Findings of Fact: A document prepared at the direction or request of the Assessment Appeals Board after the hearing which summarizes the facts and evidence presented at hearing, and which sets forth the conclusions reached by the Assessment Appeals Board.

18) Hearing: A scheduled session before the Board during which testimony, other evidence, and argument may be presented, by both the Applicant and the Assessor, as bases for the Board's determination of a specific issue or issues.

19) Hearing Confirmation Form: A form sent from the Clerk to an Applicant to be filled out by the Applicant and returned to the Clerk for purposes of scheduling the Hearing. A Hearing Confirmation Form is also sometimes referred to as a "Blue Letter" because it is generally issued on blue paper in order to attract the taxpayer's attention.

20) High Value Appeal: An Application pertaining to property that has an enrolled taxable value of $20 million or more.

21) Lien Date: The time when taxes for any fiscal year become a lien on property. That time for all taxable property is 12:01 a.m. on January 1 of each year, beginning in 1997. Prior to January 1, 1997, the lien date was March 1 of each year.

22) Local Roll: The list of all property within the County that is assessed by the Assessor and available for inspection at the Assessor's public counter.

23) Local Rules: These Mono County Assessment Appeals Board Local Rules.

24) Motion: A written request or petition for an order filed with the Clerk before a hearing on an Application.

25) Notice of Hearing: A letter sent to a party notifying him or her of the date, time, location, and purpose of a scheduled hearing.

26) Notice of Invalid Application: A letter sent from the Clerk notifying the applicant that her or his Application is invalid as untimely and/or incomplete and the potential remedies available to the Applicant.

27) Party: The Assessor and the person or entity affected that files an assessment appeal.

28) Person or Entity Affected: Any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of an Application before the Board, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the Application.

29) Postponement: The change of a scheduled hearing to a later date or time, prior to the submission of any evidence to the Board.

30) Recess: A brief break in a hearing, given at the Board's discretion, that does not constitute a Continuance.

31) Redirect Examination: The questioning of a witness by the party who called him or her to testify in a hearing in order to explain or otherwise qualify any damaging or accusing testimony brought out by the opponent during cross-examination. Redirect examination is limited to the scope of the cross-examination.

II. FILING APPLICATIONS & OTHER DOCUMENTS

A. **Electronic Filing of Documents** *Under no circumstances will an "Application for Changed Assessment" form be accepted by facsimile transmission or electronic mail.* (In the event

that the Clerk has established online filing of assessment appeal applications, the signature requirements for application will be accepted pursuant to established standards set forth by the California Secretary of State.)

The Clerk shall accept other written documents (e.g. agent authorizations, stipulations, moving papers, requests for reconsideration, etc.) transmitted by electronic mail (email) or facsimile machines provided that all material information within the document is legible, the document is signed and received by the Clerk within the applicable time constraints, and the following requirements are met:

1) Email: Documents submitted by email must be scanned and attached in a PDF format to the email message. The subject line of the email message must include the A.P.N.(s) or tax bill number listed on the application as well as a description of the document enclosed. PDF attachments that fail to open or trigger a virus warning on the Clerk's computer will be deemed rejected.

2) Facsimile: Facsimile documents shall contain the phrase "By Fax" immediately following the signature of the signing party.

By choosing to deliver a document by fax transmission or email, the Applicant or Agent represents that the original signed document is in his or her possession or control, and that no alteration has been made to the document form or its data. In the event a dispute arises regarding the timeliness of filing any document electronically, it is the Applicant's responsibility to provide the Board with all relevant evidence supporting the Applicant's assertion of timeliness.

B. **Filing an Application** The "Application for Changed Assessment" form must:

1) Be ***complete*** and submitted on the current approved form, available from the Clerk;

2) Be filed by a person or entity affected, the parent, child, or spouse of a person affected, or an authorized agent of a person or entity affected;

3) Be filed with the *Clerk* by mail or personal delivery within the prescribed timelines;

4) Include *original signature(s)* (copies or facsimile filings cannot be accepted) and the required non-refundable processing fee of $17.70 per parcel.

C. **Fee Waiver** Applicants may qualify for a waiver of the processing fee based on receipt of public assistance or income level. Applicants requesting a waiver of the processing fee must submit the "Confidential Request for Waiver of Assessment Appeal Administrative Processing Fee" form, available on the Clerk's website, in lieu of the processing fee. A processing fee or request for fee waiver form must accompany each application for Changed Assessment filed or the application cannot be processed.

D. **Agent Authorization** A person or entity affected who wishes to authorize an agent who is not an attorney licensed to practice in the State of California or the parent, child, or spouse of the person affected must:

1) Complete and sign the section titled "Agent or Attorney For Applicant" of the Application for Changed Assessment Appeal form, or

2) Attach a written authorization to the application, prior to filing the application with the Clerk, containing all the following required information:

   a) The date the authorization statement is executed;

   b) A statement to the effect that the agent is authorized to sign, file, and withdraw the application in the specific calendar year in which the application is filed;

   c) The specific parcel(s) or assessments(s) covered by the authorization, or a statement that the agent is authorized to represent the Applicant on all parcels and assessments located in Mono County;

   d) The name, address and telephone number of the specific agent who is authorized to represent the Applicant;

   e) The Applicant's signature and title;

   f) A statement that the agent will provide the Applicant with a copy of the application.

3) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

4) If the Applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

E. **Revocation or Substitution of An Agent** An Applicant who wishes to cancel or revoke the previous authorization of an agent, or who wishes to substitute a new agent for a former agent previously authorized, must complete a new Agent Authorization form and file it with the Clerk. Unless a new Agent Authorization form has been properly completed and filed with the Clerk, all correspondence regarding the appeal will continue to be sent to the agent who was first authorized to act on the Applicant's behalf. Such person will remain the authorized agent for the application, and may settle by stipulation, withdraw or otherwise control the appeal.

F. **Optional Information** In addition to the other information required by the Revenue and Taxation Code, Applicants are encouraged to provide their email contact information on each application they file. *Inclusion of email contact information on an application shall*

constitute the Applicant's consent to receive correspondence related to the application from the Clerk by email. Unless otherwise required, the Clerk may utilize the email address provided by the Applicant as the sole means by which to communicate with the Applicant regarding an application.

G. **Invalid Applications** Following review by the Clerk, applications that are either untimely or incomplete and not corrected according to subsection 2 of this rule shall be denied by the Clerk as invalid and no hearing will be scheduled. The Board lacks jurisdiction to hear an assessment appeal when the application for the assessment appeal is invalid.

1) Untimely Applications: The Clerk shall determine if an application is timely filed as follows:

   a) Any application or re-submittal of a corrected application, that is filed by mail or personal delivery and received at the Clerk's office no later than 5:00 p.m. of the last day of that application's applicable filing or correction deadline is timely filed.

   b) Any application or re-submittal of a corrected application, that is filed by mail that has the postage prepaid, is properly addressed, and bears a U.S. postmark date no later than the last day of that application's applicable filing or correction deadline shall be deemed timely filed.

   c) An application or re-submittal of a corrected application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates.

   d) An application or re-submittal of a corrected application filed by mail that bears only a private business postage meter postmark date and is received by the Clerk after the applicable filing or correction deadline shall not be deemed timely filed.

   e) If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is properly addressed, mailed, and postmarked on the next business day or received by the Clerk on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

2) Incomplete Applications: An application lacking any of the information required by Property Tax Rule section 305(c)(1) is incomplete.

3) Notice of Invalidity: When any application or re-submittal of a corrected application is untimely filed, the Clerk shall promptly notify the Applicant that that no assessment appeal hearing will be set because the filing of his or her application is invalid as untimely and informing the Applicant of his or her right to appeal the denial of a hearing, according to the procedure in section H of this rule.

When an application is timely filed yet incomplete, the Clerk shall promptly notify the Applicant that the application is incomplete, outlining the information required to complete the application, warning that if the missing information is not received by the Clerk within thirty (30) days of service of the notice (either the postmark date of a letter or the date a notification is sent by email) no assessment appeal hearing will be set, and informing the Applicant of his or her right to appeal denial of a hearing, according to the procedure in section H of this rule.

H. **Appeal of Invalidity** The Applicant may appeal the denial of a hearing based on the invalidity of his or her application as untimely or incomplete ***only by*** filing a written request to the Clerk within thirty (30) days of the notifying letter's postmark date or email origination date. If a timely written request to appeal the application's invalidity is received by the Clerk, the Clerk shall schedule the application for a jurisdictional Hearing to determine whether the application will be denied by the Board as untimely and/or incomplete.

Additionally, the Assessor may appeal the Clerk's determination that an application is valid or otherwise challenge the Board's jurisdiction to hear an appeal by filing a written request for a jurisdictional hearing at any time prior to the scheduled hearing on the appeal's merits.

As a condition to declaring a previously incorrect or incomplete application complete under this rule, the Board may require the Applicant to execute a written agreement to extend the period for hearing and decision on the application beyond the two-year period required by Revenue and Taxation Code Section 1604.

I. **Consolidation of Applications** The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate multiple applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation as soon as practicable.

J. **Amendments & Corrections** An Applicant or Authorized Agent may amend an application without limitation until 5:00 p.m. on the last day upon which the application can be timely filed. *After the filing period has expired:*

1) An invalid application may be corrected in accordance with subsection (G)(3) of this rule.

2) The Applicant or the Authorized Agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

3) Upon request of the Applicant or the Authorized Agent, the Board, in its discretion, may allow the Applicant or the Authorized Agent to make amendments to the application in addition to those specified above in subdivisions (1) and (2) to state additional facts

claimed to require a reduction of the assessment that is the subject of the application.

4) The Applicant or the Authorized Agent shall state the reasons for the request, which shall be made in writing and filed with the Clerk prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the Clerk shall provide a copy to the Assessor upon receipt of the request.

5) As a condition to granting a request to amend an application, the Board may require the Applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

6) If a request to amend is granted, and upon the request of the Assessor, the hearing on the matter shall be continued by the Board for no less than 45 days, unless the parties mutually agree to a different period of time.

7) An Applicant or the Authorized Agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered an amendment.

K. **Claim for Refund** If a valid Application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the Applicant shall be deemed to have challenged each finding of the Board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

L. **Withdrawal** Unless the Assessor has given the Applicant a written notice of the intent to recommend an increase in the assessed value of the property, an application may be unconditionally withdrawn at any time prior to or at the time of the hearing upon written request to the Clerk, signed by the Applicant, or by returning the Hearing Confirmation Letter to the Clerk with the withdrawal box marked. When a notice of intent to increase the assessed value of the subject property has been issued pursuant to Revenue and Taxation Code section 1609.4, withdrawal of the application may only be made with the consent of the Assessor. No conditional withdrawal will be accepted. Once made, all withdrawals are final and may not be revoked.

M. **Copy of Application to Assessor** The Clerk shall transmit to the Assessor a copy of each application and each written request for amendment or correction that is received. A reasonable time shall be allowed before the hearing for the Assessor to obtain information relative to the property and the assessment thereof.

III. PREPARING FOR HEARING

A. **Notice of Hearing** At least forty-five (45) days prior to the hearing, unless otherwise

required by Property Tax Rule 307, the Clerk will notify the Parties in writing of the date, time and place scheduled for hearing of each appeal.

Note: *Applicants are strongly encouraged to contact the Assessor at least one week prior to the scheduled Hearing to discuss any issues involving the appeal. Such discussions may result in resolution of the dispute without the need for Hearing.*

B. **Hearing Confirmation Form** When the Clerk mails a Notice of Hearing, a Hearing Confirmation Form will be included. At least twenty-one (21) days before the date scheduled for hearing of the Applicant's appeal, the Applicant shall mail or otherwise deliver the completed Hearing Confirmation Form to the Clerk who shall provide a copy to the Assessor. The form will provide the Applicant with the following options to indicate that the Applicant intends to:

1) appear on the scheduled hearing date; or

2) request the postponement of the scheduled hearing to another regularly-scheduled Board hearing date; or

3) withdraw the appeal.

If the Applicant fails to return the completed confirmation notice form, as required, and appears on the scheduled date of hearing, the Board shall, at the Assessor's request, postpone the hearing to a date at the discretion of the Board. The failure to timely return the completed Hearing Confirmation Form shall be deemed to be a postponement request by the Applicant for purposes of Rule 26. If the hearing date is within ninety (90) days of the expiration of the two-year limitations period for hearings set by Revenue and Taxation Code Section 1604 (c), the Board shall require the Applicant to enter into a written agreement extending and tolling the two-year limitations period as a condition of the postponement.

C. **Request for Postponement** Subject to the time limitations set forth in Rule III.C(2) below, each party to the appeal is entitled to one postponement of a scheduled hearing. The postponement can be initiated by submitting a written request to the Clerk or submitting the Hearing Confirmation Letter with the appropriate box marked to request a postponement. The request must be delivered to the Clerk’s office no later than 21 days prior to the scheduled hearing date; however, requests for postponement shall be considered as far in advance of the hearing date as practicable.

1) Time of Request: If the request for postponement is made by the applicant and received by the Clerk within 120 days of the expiration of the two-year limitation, the postponement shall be contingent upon the Applicant's written agreement to extend the two-year period. If the postponement is requested by the Assessor and received by the Clerk within 120 days of the expiration of the two-year limitation, it may be granted upon the Board’s discretion.

2) Untimely/Subsequent Request: Untimely postponement requests (i.e. those requests submitted later than 21 days prior to the scheduled hearing date) and requests subsequent to the first postponement, shall be granted only upon showing of good cause. Such requests must be submitted to the Clerk in writing and describe unforeseen and compelling circumstances which made a timely request for postponement impossible or impracticable. The request will be presented to the Assessment Appeals Board on the scheduled hearing date. The Board will consider the request and take action to approve or deny the request.

3) Stipulations: A stipulation for a postponement of a scheduled hearing by an Applicant and the Assessor shall be deemed to constitute good cause for the requested postponement, but the Board may require extending and tolling indefinitely the two-year limitation period prior to granting such a continuance if the postponement is requested within 120 days of the expiration of the two-year limitation. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in State Board of Equalization Rule 305.1(d).

4) Clerk's Authority: The Clerk shall have the authority to grant (i) all postponements which are a matter of right and (ii) all postponements based on a stipulation by Applicant and the Assessor. Clerk shall have no authority to grant any untimely postponement request or any request to postpone subsequent to the first postponement.

D. **Disqualification of a Board Member** A Board member shall disqualify himself or herself from hearing or deciding any matter in which he or she has a financial interest as defined in Government Code Section 87103. A Board member may also disqualify himself or herself from any matter pending before the Board for good cause, which shall be stated on the record.

Additionally, a party may file with the Clerk a written statement objecting to the hearing of a matter before a member of the Board, which may result in the Board member's disqualification. The process for objecting to a Board member with regard to a hearing is as follows:

1) The statement shall set forth the facts constituting the ground of the disqualification of such member and shall be signed by the party and shall be filed with the Clerk at the earliest practicable opportunity after the discovery of the facts constituting the ground of the member's disqualification, and, in any event, before the commencement of the hearing on any issue of fact in the proceeding before such member. Copies of the written statement shall be served by the presenting party on each party in the proceeding and on the Board member alleged in the statement to be disqualified.

2) Within ten (10) days after the filing of any such statement, or ten (10) days after the

service of such statement as above provided, whichever is later in time, the Board member alleged therein to be disqualified may file with the Clerk a written answer either:

a) consenting in writing that the action or proceeding be tried before another member, in which event the Clerk shall appoint a replacement member or

b) denying his or her disqualification, which answer may admit or deny any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his or her disqualification.

3) The Clerk shall transmit a copy of such consent or answer to each party. Every such statement and every such answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure for the verification of pleadings.

4) The question of the member's disqualification shall be heard and determined by a Board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding. In the event that the parties fail to agree in writing, within five (5) days after the expiration of the time allowed herein for the member to answer, the Clerk shall assign a member to hear and determine the matter of the disqualification.

E. **Completion of Discovery and Exchange of Information** Both parties may file a written request for exchange of information, except that the Assessor may only do so if the assessed value of the property before deduction of any exemption exceeds $100,000. The request may be filed with the Clerk at the time of filing the application, or may be submitted to the other party and the Clerk at any time prior to thirty (30) days before the commencement of the hearing. The exchange was deemed initiated on the date of postmark, as affixed by the United States Postal Service or the date certified by a bona fide private courier service on the envelope containing the information. Where both marks exist, the United States Postal Service postmark date shall control. The Clerk shall at the earliest opportunity forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data, if it is to be used as evidence to support the opinion of value:

1) COMPARABLE SALES DATA - The properties sold shall be described by the Assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold, there shall be presented: the approximate date of the sale, the price paid, the terms of the sale (if known), and the zoning of the property.

2) INCOME DATA - The gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis) and rate or rates employed.

3) COST DATA - With regard to improvements to real property: the date of construction,

type of construction and replacement cost of construction. With regard to machinery and equipment: the date of installation, installed cost and any history of extraordinary use. With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

If a party requesting an exchange of data has submitted the data required within the time specified, the other party shall submit a response to the initiating party and the Clerk at least 15 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the Assessor is the respondent, he or she shall submit the response to the address shown on the application or on the request for exchange for information, whichever is filed later.

Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

If one party initiates a request for information and the other party does not comply within the time specified in this section, the Board may grant a postponement for reasonable period of time. The postponement shall extend the time for responding to the request. If the Board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

The Applicant and the Assessor shall complete any and all discovery and exchange of information authorized by law prior to the equalization hearing. Any objections to requests for disclosure made to the other party under Revenue and Taxation Sections 408, 441-470 or 1606 or to complain of unreasonable or unlawful difficulties encountered by either party in obtaining information believed to be necessary to proceed to hearing may be brought to the attention of the Board by means of a written request for pre-hearing conference.

Upon good cause shown, the Board shall make findings concerning the failure of a party to respond to requests for information and the impacts of such failures on the requirements to timely hear the appeals under the provisions of Revenue and Taxation Code Section 1604 (c). Continuances for the conduct of discovery or for the pursuit of court action to enforce discovery demands or subpoenas shall be granted by the Board only upon a showing of

good cause. To expedite the hearing and to carry out its equalization duties, the Board may in its discretion order compliance with discovery demands and subpoenas as provided by the next section of this rule.

F. **Subpoenas and Sanctions**

1) Subpoenas: The Board may issue subpoenas for the attendance of witnesses and/or the production of books, records, maps and documents at the hearing either upon its own motion or at the request of a party in advance of the hearing or at the time of the hearing. With regard to the issuance of subpoenas, please note the following:

   a) A subpoena may be served on any resident of the State of California or any person or business entity found within the state.

   b) A request for a subpoena for the production of books, records, maps and documents shall be supported by an affidavit, such as is prescribed by section 1985 of the Code of Civil Procedure.

   c) Subpoenas shall be restricted to compelling the appearance of a person or the production of things at the hearing and shall not be utilized for purposes of prehearing discovery. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the Board.

   d) If a subpoena is issued at the request of a party, he or she is responsible for serving it and for the payment of witness fees and mileage.

   e) In the event a State Board of Equalization employee is subpoenaed pursuant to section 1609.5 of the Revenue and Taxation Code at the request of the Applicant and the County Board grants a reduction in the assessment, the County Board may reimburse the Applicant in whole or in part for the actual witness fees paid pursuant to section 1609.5.

   If a party desires the Board to issue a subpoena, the party shall make the written request pursuant to Rule III.H, below and sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Upon such request, the Board may, whenever possible, issue subpoenas pursuant to sections 1609.4 and 1609.5 of the Revenue and Taxation Code. A subpoena issued near in time to or after commencement of the hearing should be as limited as possible, and a postponement or continuance of the hearing may be granted, if requested, for a reasonable period of time.

2) Sanctions: Failure on the part of the party to comply with a subpoena or order to produce evidence may result in the imposition by the Board of one or more of the sanctions authorized by Code of Civil Procedure section 2023, subsections (b)(2),(b)(3) and (b)(4)(A)-(D), if the Board deems such an order necessary to carry out its equalization duties and to expedite the hearing.

G. **Pre-hearing Conferences:** Pre-hearing conferences are mandatory for high value appeals, but may also be set by the Clerk at the request of a party or at the direction of the Board. These hearings may be scheduled to resolve issues such as, but not limited to:

a) the present status of the appeal;

b) whether the parties have engaged in or completed necessary case preparation, discovery or settlement of uncontroverted issues;

c) the factual and legal issues in dispute;

d) the names of the witnesses to be called, the order of testimony and the anticipated duration of the hearings;

e) the readiness of the parties to proceed with the hearings;

f) the status of information requests;

g) combining applications into a single hearing;

h) bifurcating the hearing issues;

i) scheduling a date for the hearing on the merits of the application; and

j) disclosure of such other matters as the Board deems appropriate to facilitate and expedite the hearing and resolution of the case.

2) <u>High Value Appeals</u>: All appeals that are designated as "high value appeals" under these Local Rules shall be scheduled for a pre-hearing conference at the Board's discretion. At the Board's discretion, additional pre-hearing conferences may be conducted as needed until the case is heard and decided or otherwise resolved.

3) <u>Pre-hearing Reports and Motions</u>: The Board may require the parties to submit written motions or written pre-hearing status reports to discuss, at the direction of the Board, any or all of the information items set forth above. However, any party may submit a written status report or motion without formal Board direction. The parties shall file and serve any pre-hearing status reports or motions in accordance with Rule III.H. The failure of a party to serve and file a pre-hearing report (if so ordered), to appear or to fully participate in any pre-hearing conference, if unexcused by the Board, shall constitute abandonment of the appeal and provide grounds for denial of the appeal on the merits.

4) <u>Notice of Preconference Hearing:</u> The Clerk shall set the matter for a pre-hearing conference and send a Notice of Hearing not less than 30 days prior to the conference, unless the parties stipulate orally or in writing to a shorter notice period. The Notice of Hearing may include direction from the Board to submit a pre-hearing status report regarding specific issues.

H. **Motions:** The parties to an appeal may file written motions for relief with the Clerk,

including motions to postpone, to set, or bifurcate hearings, and for protective orders and subpoenas. In response to a written motion, the party against which relief is sought may file an "opposition" to which the moving party may then file a "reply". The documents required for filing a motion, opposition, or reply are collectively referred to as "papers".

1) Format: The first page of each paper shall specify immediately below the number of the case: the date, time, and location of the scheduled hearing (*See* Appendix A).

   a) The papers filed in support of a motion, also referred to as the "moving papers", shall consist of at least the following:

      (i) notice of hearing on the motion, which shall notify the other parties that a hearing will be held to determine whether the Board will grant or deny the attached motion ;

      (ii) the motion, which shall concisely state in the opening paragraph the specific order being sought, by whom the order is being sought, and the grounds for issuance of the order;

      (iii) a memorandum of points and authorities in support of the motion, not to exceed six pages, which shall contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, regulations, cases, and textbooks cited in support of the position advanced;

      (iv) A proof of service, in accordance with Civil Code of Procedure section 417.10, which shall state under penalty of perjury how, when, and by whom the moving papers were delivered to the other party or parties to the appeal and shall be signed by the person making the delivery.

   b) These moving papers must be filed as one combined document. Other papers that may be filed in support of a motion, such as declarations, exhibits, or other documents, should be attached to the combined document. The proof of service of this combined document on other parties, shall be filed and received by the Clerk no later than ten days before the time appointed for the hearing.

   c) Opposition and reply papers shall consist of the following:

      (i) Either a memorandum of points and authorities opposing the motion, as described in (1)(a)(iii) of this subsection, or a document not to exceed 6 pages, which concisely outlines arguments against the motion based on cited law and/or supported facts;

      (ii) Other papers the party wishes to file in opposition to the motion, such as declarations, exhibits, or other documents, should be attached to the combined document.

      (iii) A proof of service.

2) Filing: An original and five copies of the motion, opposition or reply shall be filed in the

Clerk's office.

3) Bifurcation: Where the Board has bifurcated the hearing on issues arising out of an appeal, each bifurcated hearing shall be considered a hearing for purposes of these guidelines, and appropriate motions may be made prior to each bifurcated hearing.

4) Time For Filing Motions:
   a) For motions that request the Board to enter an order that will result in a final decision on the case, all moving and supporting papers shall be served and filed and received by the Clerk at least 45 days before the hearing date.
   b) Unless otherwise ordered, all other motions and their supporting papers shall be served and filed and received by the Clerk at least 20 days before the hearing date.
   c) All papers opposing a motion shall be filed and received by the Clerk and the other party at least eight days before the hearing date.
   d) All reply papers shall be filed and received by the Clerk and the other party at least two days before the hearing.

5) Untimely Filing: No untimely paper shall be accepted without good cause. If the Appeals Board, in its discretion, agrees to consider a late filed paper, the minutes or order shall so indicate the good cause shown.

6) Hearings: The Clerk shall maintain the Board's hearing schedule. For a hearing on a motion a party may select a date and time, based on the Board's hearing schedule, and request the Clerk to set the hearing on a motion for the date selected by the party. The party shall thereafter file and serve the motion for the date selected by the party.

7) Evidence at Hearing on Motion: Oral testimony, documentary evidence, declarations or affidavits may be received at the hearing at the discretion of the Board.

8) Deliberation: The Board may take the matter under submission and deliberate in closed session on the motion and thereafter direct the Clerk to notify the parties of its ruling on the motion.

9) Clerk's Notice of Ruling: Where the Board rules on a motion, the Clerk shall promptly notify the parties of the ruling. The notification shall name the moving party and the party against whom relief was requested and specifically identify the matters ruled upon. Mailing a copy of the ruling or order to the parties shall constitute service of notice.

10) Record of Proceedings: The Clerk shall record the hearing on the motion in the same manner that the Clerk is required to record the Board's proceedings on Applications under the Revenue and Taxation Code.

I. **Exhibits:** Unless submitted according to Rule 3(H), no exhibits, maps, letters, papers, documents, charts, etc. to be submitted as evidence will be accepted prior to the hearing of the appeal on its merits. If such documents are filed with an application by the Applicant and inadvertently accepted by the Clerk, the Clerk is not responsible for maintaining them in the appeal file, for forwarding them to the Assessor or Board, or for returning them to the Applicant.

However, parties shall prepare any documentary evidence to be presented at the hearing in advance thereof as follows:

1) The Applicant shall serially pre-mark all exhibits with numerals (e.g., Applicant's Exhibit 1, Applicant's Exhibit 2, etc.) and the Assessor shall serially pre-mark all exhibits with letters (e.g., Assessor's Exhibit A, Assessor's Exhibit B, etc.) to reflect the order in which that party intends to introduce them into evidence.

2) At the hearing each party shall provide the Clerk with seven (7), pre-marked copies of each document being presented as evidence prior to the Board's admission of said document into evidence.

3) To be most effective in presenting evidence, the Board strongly urges parties to number each page of each exhibit and to bind exhibits with more than three (3) pages appropriately. Each exhibit may be either single or double-sided, but mixing single and double sided formats within an exhibit is disfavored.

J. **Recordings and Transcripts:** All hearings of the Board shall be recorded or reported or videotaped subject to the conditions set forth in Code of Civil Procedure section 2025, subsection (l)(2). Certified transcripts or recordings of Board hearings are available as follows:

1) Any person may purchase a tape recording of that portion of the hearing that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within sixty (60) days after the final determination of the Board.

2) The Clerk is unable to prepare typed transcripts. However, the Applicant, at the Applicant's own effort and expense, may arrange to have the hearing reported by a stenographer. If the Applicant desires to arrange for a stenographic reporter, the Applicant must notify the Clerk in writing at least ten (10) days before the hearing.

3) Only the Clerk may certify that the transcript or record of the hearing is accurate and complete. If a stenographic reporter is present, the Board may designate the reporter's transcript as the official record upon being filed with the Board. Upon the deposit of reasonable costs of comparison, the Clerk will certify typed transcripts made from the tape recorded record, provided the request has been made within sixty (60) days after the final determination of the Board.

K. **Request for Findings of Fact** Findings of fact are necessary for judicial (court) review of the decision. An Applicant or Authorized Agent may request findings by checking the appropriate box on the appeal application, or by submitting a separate request for findings to the Clerk of the Board. The Applicant or Authorized Agent must confirm the request for findings with the Clerk on the scheduled hearing date, prior to commencement of the hearing, and must pay the deposit as indicated in the County Fee Schedule (Mono County Code Section 16.0206). Note that besides the initial deposit, the final cost of findings of fact will include actual costs for transcription services plus attorney preparation fees. Completed findings will not be released to the requesting party until all fees have been paid. The requesting party may abandon the request and waive the findings upon receiving oral notification of the decision.

   Note: *Parties to a hearing are always notified of the decision in their case in accordance with Rule VI, Section J, below and need not make any special request to receive such notification.*

IV. ASSESSMENT APPEAL HEARING

A. **Legal Counsel** The Applicant and the Assessor may be represented by legal counsel. Individual deputies in the office of County Counsel may represent the Assessor and the Board, as long as the same deputy does not represent both parties.

B. **Stipulations** No reduction of an assessment can be made unless the Applicant or Authorized Agent attends a hearing scheduled before the Board, and offers evidence under oath regarding the value of the property and answers all pertinent questions. An exception to this requirement is if a written stipulation is filed with the Board, signed by the Assessor and the Assessor's Counsel on behalf of the County and the Applicant or Authorized Agent making the application, which includes the full value and assessed value of the property and the facts upon which the reduction in value is premised. The Board may, at a public hearing:

   1) Accept the stipulation, and thereby waive the appearance of the Applicant or Authorized Agent and change the assessed value in accordance with Section 1607 and 1610.8 or

   2) Reject the stipulation and schedule or reschedule the application for hearing.

   3) An Applicant who chooses to transmit a signed stipulation by email transmission must return the originally signed stipulation to the Clerk. If the Clerk does not receive the originally signed stipulation at least three (3) days prior to the scheduled hearing, the personal appearance of the Assessor and the Applicant or Authorized Agent may be required.

C. **Continuances** At the hearing, during the presentation of evidence, the Board may continue the hearing to a later date upon its own motion or at the request of either party, provided that:

1) If the request is made by a party, that party provides good cause, as determined by the Board based on the record, why a continuance should be granted;

2) If the request is made by the Applicant, a 1604(c) Waiver Agreement is on file or filed by the Applicant;

3) If the request is made by the Assessor and within 120 days from the expiration of the two-year deadline, the Applicant has a 1604(c) Waiver Agreement on file or waives the two-year statute on the record before the Board;

4) If the continuance is based upon the Board's own motion and no 1604(c) Waiver Agreement is on file or filed by the Applicant, the hearing can be continued to specific designated date that is at least 60 days prior to the two-year statutory deadline for hearing appeals under Section 1604(c); and

5) The evidentiary portion of the hearing to be continued has not been concluded.

The Clerk shall inform the Applicant or the Applicant's agent and the Assessor in writing of the time and place of the continued hearing, not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

D. **Presumptions and Burden of Proof** Property tax assessments, and some of the factual circumstances on which property tax assessments are based, carry certain legal presumptions determining the manner in which evidence is presented as well as the amount of evidence a party is required to present. The following presumptions are applicable to assessment appeals:

1) Presumption of Correctness: Subject to exceptions set by law, it is presumed that the Assessor and all governmental employees have properly performed their duties. 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, that the property in question has not been otherwise correctly assessed. The law requires that the Applicant present independent evidence relevant to the full value of the property or other issue presented by the application.

   a) Exceptions: There is a rebuttable presumption in favor of the taxpayer or Applicant, such that the Assessor bears the burden of proof when the hearing involves:
      (i) A penalty portion of an assessment.
      (ii) The assessment of an owner-occupied single-family dwelling, defined by Revenue and Tax 167(c), or the appeal of an escape assessment, and the Applicant has filed an application that provides all of the information required in State Board Rule 305(c) and has supplied all information as required by law to the Assessor. With respect to escape assessments, the presumption in favor of the Applicant, does not apply to appeals resulting from situations where an Applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction.

(iii) The Assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, unless the Applicant has failed to supply all the information required by law to the Assessor.

b) Presumption Is Not Evidence: If the Applicant has presented evidence, and the Assessor has also presented evidence, then the Board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the Assessor's determination is incorrect. The presumption that the Assessor has properly performed his or her duties is not evidence and shall not be considered by the Board in its deliberations.

2) Purchase Price Presumption: In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.

3) Base Year Value Presumptions: There are a number of presumptions regarding the base year value of an assessed property. For a detailed explanation of these presumptions, please refer to Property Tax Rule 305.5.

4) Enforceable Restrictions Presumption: Pursuant to Section 402.1 of the Revenue and Taxation Code, the Board shall presume that zoning or other legal restrictions on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the Board to overcome that presumption.

5) Presumptions Affecting Property Title: Fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended. The owner of the legal title to property is presumed to be the owner of the full beneficial title and this presumption may be rebutted only by clear and convincing proof.

6) Burden of Proof Standards: Generally, the required standard of proof in hearings is proof by a preponderance of the evidence, meaning that on balance the evidence presented has more convincing force and a greater probability of truth than the evidence offered in opposition to it. However, there are certain property tax situations in which the higher standard of clear and convincing evidence is required, meaning that the evidence so clear as to leave no substantial doubt.

E. **Open Hearings** Hearings shall be open, accessible, and audible to the public except that:

1) Upon conclusion of the hearing, the Board may take the matter under submission and deliberate in private in reaching a decision, and

2) The Board may grant a request by either party to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a “trade secret” is that

information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the Clerk a declaration under penalty of perjury that evidence is to be presented by the party that relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the party to whom it relates.

F. **Bifurcated Hearings** An application may involve a legal issue(s) and a valuation issue(s). In those instances, the Board will hear any controlling legal issue(s) first. If a decision can be rendered at the end of the hearing on the legal issue(s) and if time permits, the Board may then hear the valuation issue(s) immediately after rendering its decision on the legal issue(s).

The parties can request that the hearing on the valuation issue be scheduled for hearing on another day if that request is received at least 20 days before the scheduled hearing on the legal issue. If neither party has requested that the valuation issue be scheduled for another date, the decision to proceed with the hearing will be at the sole discretion of the Board.

G. **Order of Proceedings** A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal. However, the Board has the authority and discretion to determine points of law, admissibility of evidence and other issues relative to the hearing. Hearings on applications shall proceed as follows:

1) Calling of Cases: The Chair shall announce the number of the Application and the name of the Applicant and invite the Applicant forward to begin the hearing.

2) Failure to Appear: If the Applicant or Authorized Agent is not present, the Chair shall ascertain whether the Clerk has notified the Applicant of the time and place of hearing. If the notice has been given, the application shall be denied for lack of appearance. If the notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice of the new hearing date to the Applicant. A denial for lack of appearance by the Applicant is not a decision on the merits of the application and reconsideration of the denial may occur as provided in Local Rule V.B, below.

3) Introduction to the Proceeding: If the Applicant is present, the Chair shall announce the nature of the application, the assessed value as it appears on the local roll, and the Applicant's opinion of the value of the property. The Chair shall then state the issues the Board has been requested to determine, inquire as to whether any agreements or stipulations have been agreed to by the parties, and briefly explain the hearing procedure to the parties. The parties will then be given the opportunity to ask any procedural questions.

4) Swearing of Witnesses: The Clerk shall administer the oath to the parties and any other persons assembled to be called as witnesses. Where a witness objects to taking the oath, that witness may affirm that he or she will tell the truth, the whole truth, and nothing but the truth under the penalty of perjury.

5) Burden of Proof: If there is any disagreement as to: 1) the issues before the Board, 2) which party has the burden of proof, or 3) any other legal issue that would affect the order or nature of the hearing, the Board shall give both parties the opportunity to present legal argument and factual evidence *solely* in regard to that legal or procedural issue, which it shall decide based on the record before moving forward with the hearing to opening statements.

6) Opening Statements: Both parties shall have the opportunity to make an optional opening statement, the duration of which may be reasonably limited by the Board. Either party may waive this opportunity, but the Chair shall first offer the opportunity to the party with the burden of proof. The opening statement should briefly describe the property or properties that are the subject of the appeal and outline the facts that the party will demonstrate during its presentation of evidence. The opening statement is *not evidence* and should not include argument, but should merely be a brief preview of the party's presentation.

7) Presentation of Evidence:

    a) Order of Presentation- For appeals where the Applicant has the burden of proof, the Board shall require the Applicant to present his or her evidence first. The Assessor and the Board may conduct a cross-examination after each piece of evidence or witness presented by the Applicant. When the Applicant is finished presenting evidence and all cross-examination has been conducted, the Board shall then determine whether the Applicant has presented sufficient evidence supporting his or her position. If the Applicant fails to present evidence sufficient to rebut the correctness of the assessed value, the Board will, at the request of the Assessor, dismiss the appeal without requiring the Assessor to provide evidence substantiating the assessed value. In the event the Applicant has presented sufficient evidence, the Board shall then require the Assessor to present his or her evidence and the Applicant and the Board may conduct a cross-examination after each piece of evidence or witness presented by Assessor. For appeals where the Assessor has the burden of proof, the order of presentation is reversed and if the Assessor fails to present evidence sufficient to rebut the presumption, the Board should rule in favor of the Applicant if there is substantial evidence in the record to support the Applicant's value.

    b) Admissibility of Evidence- Assessment appeal hearings are not conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. However it is in the best interests of the

parties to be as concise as possible when presenting their evidence. Failure to enter a timely objection to evidence constitutes a waiver of that objection.

c) Presentation of Documentary Evidence- The parties should introduce documents as evidence at the outset of their respective presentations by verbally identifying them for the record and then providing the Clerk with seven sets of all documents to be introduced.

   (i) The Clerk shall distribute one copy of each document or set of documents to each of the Board members, one copy to the Board's counsel, and two copies to the opposing party and shall keep one copy for the record.

   (ii) If a party fails to bring the required number of copies, the Chair may, on his or her own motion, postpone or continue the hearing or direct the Clerk to make additional copies at that party's expense. If the Chair chooses to postpone the hearing, said postponement shall constitute, for purposes of Rule III.C above, a request for postponement by the party failing to supply the required number of copies. If the Clerk is instead directed to make copies, she or he will collect the appropriate photocopying charges as set forth by applicable law prior to the admission of said documents as evidence.

   (iii) Each party will be given a reasonable opportunity to review and object to any document introduced as evidence prior to the Board's admission of the document into evidence.

   (iv) Once documentary evidence has been admitted, the opposing party and the Board shall have the opportunity to conduct a cross-examination in regard to that evidence.

d) Testimonial Evidence- All testimony shall be taken under oath or affirmation. Once the party presenting evidence has directly examined a witness, the opposing party and the Board shall have the opportunity to cross-examine that witness before the presenting party calls another witness to testify. At the discretion of the Board, the presenting party may then conduct a redirect examination of the witness.

e) Evidence of Comparable Sales- If the evidence includes data on sales of comparable properties, the data will be rejected unless the sales closed no more than 90 days after the valuation date. Applicants and Authorized Agents should be prepared to answer questions about the comparable properties.

f) Written Opinions of Value- If any party intends to offer in evidence at the hearing a written opinion of value, including, but not limited to an appraisal report, that party shall cause the author of the written opinion of value or appraisal report, to be present at the hearing and to be available for cross examination by the other party and by members of the Board. Notwithstanding the foregoing, the parties may

stipulate to the admissibility of the written opinion of value or appraisal report or portion thereof without the presence of the author.

g) Greater Than Roll Value- When the Assessor requests the Board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the Chair shall determine whether or not the Assessor gave notice in writing to the Applicant by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered have been supplied at least 10 days prior to the hearing the Assessor may introduce such evidence at the hearing. The foregoing notice requirement shall not prohibit the Board from a finding of a higher assessed value when it has not been requested by the Assessor.

h) Qualifications of Assessor's Appraisers Presumed- The Board hereby finds and declares that the Assessor's presentation of evidence to qualify the Assessor's appraisers as experts constitutes a waste of administrative resources. There shall be a rebuttable presumption that the Assessor's appraisers are qualified to render expert testimony concerning valuation issues.

i) Receipt of Evidence Outside of Hearing- No member of the Board shall, after an Application for equalization has been filed with the county, solicit or receive evidence outside of the public hearing relating to said application or knowingly view the property that is the subject of the appeal. If a Board member has personal knowledge of a matter before the Board, other than the type which could lead to potential recusal or disqualification, then at the appropriate time during the hearing, the Board member shall publicly report such fact (e.g., knowledge of neighboring properties).

8) Closing and Rebuttal Arguments: After both parties have had an opportunity to present their cases and cross-examine each other's evidence, the evidentiary portion of the hearing is closed. The Board shall then allow both parties to present optional closing arguments, the duration of which may be reasonably limited by the Board. Either party may waive this opportunity, but the party with the burden of proof shall have the right to make a closing argument first. The opposing party shall then have the right to make a closing argument, to which the party with the burden of proof may make a rebuttal argument, not to exceed one minute unless otherwise allowed by the Board.

H. **Decision Process** The Board must render a decision on each application over which it has jurisdiction after a properly conducted hearing on the matters in issue. Unless the hearing is bifurcated, the decision must dispose of all issues raised in the application that are within the jurisdiction of the Board. The Board shall provide to the Clerk such details as are necessary for the implementation of the Board's decision.

1) Quorum and Vote Required: No hearing before the Board shall be held unless two members of the Board are present. A hearing must be held before the full Board if

either the Applicant or the Assessor so demands. In any case wherein the hearing takes place before less than the full Board, the parties may stipulate that the absent member may read or otherwise familiarize himself or herself with the record and participate in the vote on the decision. No decision, determination, or order shall be made by the Board by an affirmative vote of less than two members of the Board. Except as otherwise provided herein, only those members who have been in attendance throughout the hearing may rule on the decision.

2) Appropriate Use of Valuation Methods: The goal of the Board is to make a determination of the full value of the property under appeal, or any other issue that is properly before the Board, or that is necessary to determine the full value of the property. Any valuation of property involves the following three fundamental considerations and must be supported by a preponderance of the evidence presented at the hearing:

   a) Identification of the Appraisal Unit- The Board shall determine the classification, amount, and description of the property that is the subject of the hearing. An appraisal unit of property is a collection of assets that function together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law. When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the Board may nevertheless determine the full value, classification, or other facts relating to other portions that have undergone a change in ownership, new construction or a change in value. Additionally, the Board shall determine the full value of the entire appraisal unit whenever that is necessary to the determination of the full value of any portion thereof.

   b) Defining Full Value- Generally, the full value is equivalent to the fair market value, however there are some circumstances in which the Board is required to find a full value that is different from the fair market value.

   c) Determination of the Proper Appraisal Method- The Board shall consider evidence of value derived by the use of any of the valuation methods described in the State Board Rules, but must determine the full value by using the appraisal method or methods most appropriate for the type of property in dispute. In addition, the Board must determine whether the method(s) used was (were) properly applied, considering the type of property assessed, governmentally imposed land use restrictions, and any recorded conservation easements as described in Civil Code section 815.1 et seq., by examining the factual data, the presumptions, and the estimates relied upon. The Board, the Applicant and appraisal witnesses shall be bound by the same principles of valuation that are legally applicable to the Assessor.

      (i) Comparative Sales Approach- When valuing a property by comparison with sales of other properties, the Board shall consider only those sales that, in its

judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the Board shall not consider a sale if it occurred more than ninety (90) days after the date for which the value is being estimated. The provisions for exclusion of any sale occurring more than 90 days after the valuation date do not apply to the sale of the subject property.

3) Independent Valuation: The Board is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing. The Board's authority to determine the full value of property or other issues is not predicated on the filing of an application nor limited by the Applicant's request for relief.

4) Decision Based on Evidence: The Board may act only upon the basis of proper evidence admitted into the record. Board members may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. In weighing evidence, the Board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the Applicant and the Assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.

5) Impact of Application Denial: A motion and order to deny an application for reduction in an assessment or any portion thereof, because of the nonappearance of the Applicant or Authorized Agent at the pre-hearing or at the hearing or because of the Applicant's failure to carry his burden of proof, shall be deemed to be a determination or finding that the full value of the property which is the subject of the application or part thereof is as determined by the Assessor and further that the assessed value of said property shall remain as set forth on the assessment roll of the County.

V. After The Appeal Hearing

A. **Notice of Decision** The Board may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission. The decision becomes final when:

1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The Board may provide a written notice of the decision.

2) A written notice of the decision is issued provided no findings of fact are requested by either party, and the decision is taken under submission by the Board at the conclusion

of the hearing. The Board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The Clerk shall notify the Applicant in writing of the decision of the Board by United States mail addressed to the Applicant or Authorized Agent at the address given in the application.

3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The Board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an Applicant or an Applicant's agent, the determination shall become final upon issuance of the findings of fact which the Board shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the Applicant or the Applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the Applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.

B. **Reconsideration & Rehearing** The decision of the Board upon an application is final. The Board shall not rehear or reconsider an application or modify a decision, except as hereinafter provided:

1) Clerical Error- The Board may modify a decision which contains a ministerial clerical error. In these instances, the Clerk shall provide a summary of the error and a recommendation for correction to the Board who originally decided the application in question.

2) Lack of Appearance Reconsideration- In addition, the Board may reconsider an application denied solely because of the nonappearance of the Applicant at the scheduled hearing, if the Applicant:

a) files a completed “Request for Reconsideration of Assessment Appeal” form, available on the Clerk’s website, with the Clerk within thirty (30) days from the date of mailing of notification of denial due to nonappearance; and

b) furnishes evidence establishing, to the satisfaction of the Board, excusable good cause for the failure to appear or to make a timely request for postponement.

Upon the filing of a complete and timely “Request for Reconsideration of Assessment Appeal” form, the Clerk shall set the matter for Hearing *solely on the question of excuse for lack of appearance*. If the lack of appearance is found to be the result of unforeseen and compelling circumstances arising in such a manner as to make a timely request for postponement impossible or impracticable, the request for reinstatement will be granted and the application will be rescheduled for a hearing on the merits.

Applicants who fail to request reconsideration within the period set, or whose requests

for reconsideration are denied, may refile an assessment appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code section 80.

C. **Judicial Review** Judicial review of the decisions of the Board may be sought by means of a suit for refund of property taxes erroneously or illegally collected brought under Revenue and Taxation Code Sections 5141-5142.

1) In order to seek review of a Board decision, it is necessary to obtain findings of fact from the Board (as provided in Rule 3K) and to make a request in writing for a copy of the tape recorded transcript of proceedings within sixty (60) days of the date of decision (Revenue and Taxation Section 1610). Upon the deposit of reasonable costs, the Clerk will arrange for a transcript to be created and certify typed transcripts made from the tape recorded record.

2) If the Applicant has not filed a claim for refund of taxes as part of the assessment appeal, the Applicant is required to file a claim for property tax refund with the Board of Supervisors of the County of Mono under the provisions of Revenue and Taxation Code section 5097. This section requires that a person seeking a tax refund submit a claim, verified under oath, the facts of the dispute with the County and the amount of taxes sought to be refunded.

3) Upon rejection of the claim by action of the Board of Supervisors or upon denial of the assessment appeal (if the refund claim is filed as part of the assessment appeal), the Applicant has a period of six (6) months to file a suit for refund of taxes in the Mono County Superior Court.

4) Because of the legal requirements that must be satisfied in order to successfully pursue a property tax refund suit, Applicants contemplating suit should promptly seek competent professional legal advice.

D. **Retention of Records** Assessment appeals records, including applications and related documents, will be retained for no less than five years after final decision by the Board.

APPENDIX A

Sample Motion Papers