

ALAMEDA COUNTY

**ASSESSMENT APPEALS BOARD AND
EQUALIZATION HEARING OFFICER
INSTRUCTION BOOKLET**



**OFFICE OF THE CLERK-ADMINISTRATOR
ASSESSMENT APPEALS BOARD
P. O. BOX 1499
OAKLAND, CA 94612-1499
(510) 272-3854
(510) 834-6754 (TDD)**

**Crystal Hishida Graff
Clerk-Administrator**

This booklet is provided for informational purposes only and is not intended as a legal authority

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1. **DEFINITIONS**

The provisions set forth in this section shall govern the construction of the terms, as used in these rules.

- 1.1 “**County**” is the County of Alameda.
- 1.2 “**Assessor**” is the Assessor of the County.
- 1.3 “**Auditor**” is the Auditor of the County.
- 1.4 “**Authorized Agent**” is one who is directly authorized by the Applicant to represent the Applicant in an assessment appeals proceeding.
- 1.5 “**County Legal Advisor**” is County Counsel.
- 1.6 “**Board**” is the Assessment Appeals Board of the County.
- 1.7 “**Clerk**” is the Clerk of the Board.
- 1.8 “**Person Affected**” or “**Party Affected**” is any person or entity having a direct economic interest in the payment of property taxes on the subject property for the valuation date that is the subject of the application. This includes 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.
- 1.9 “**Applicant**” is a Person Affected who files an application for a reduction in assessment.
- 1.10 “**Party**” is the Applicant and the Assessor.
- 1.11 “**Full Cash Value**” is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code. “Full Market Value” or “Fair Market Value” is synonymous with “Full Cash Value.”
- 1.12 “**Lien Date**” is January 1 of each year.
- 1.13 “**Base Year**” is the 1975-76 assessment year, or any subsequent assessment year in which real property or a portion is purchased, newly constructed or changes ownership.
- 1.14 “**Index Factor**” is the rate added annually on the lien date to real property (beginning the first year after the appropriate base year is established), determined by the cost of living index (not to exceed 2%).
- 1.15 “**Taxable Value**” of real property on the assessment roll is the lesser of: (a) the base year “full cash value” modified by the inflation/index factor, or (b) the “full cash value” as of the current lien date.
- 1.16 “**Decline in Value**” concept means the current full cash value of real property (as of the lien date) is lower than the base year value trended. This is sometimes referred to as Prop 8. An application based on a decline in value is only effective for the one year appealed.
- 1.17 “**Equalization Hearing Officer**” is one who is appointed pursuant to Revenue and Taxation Code Section 1636 and Alameda County Administrative Code Chapter 2.66.160 to conduct informal hearings on limited types of value assessments and protest hearings.
- 1.18 “**Legal Hearing Officer**” is one who is appointed pursuant to Alameda County Administrative Code Chapter 2.116 to conduct hearings on non-value types of matters.
- 1.19 “**Evidence**” is documentation that supports an opinion of Full Cash/Market Value, which is accepted into the record by the Assessment Appeals Board at the hearing.
- 1.20 “**1604(c) Waiver**” is a form that waives the statute requiring the County to take action on your assessment appeal within two (2) years.
- 1.21 “**Suspension of Hearing/309 Notice**” is a notice, which stays the two (2) year timeframe for the County to take action on your application due to pending litigation, a deficiency in your application, or non-response to certain requests for additional information from the Assessor.
- 1.22 “**Summary of Facts & Issues**” is a form used by the Assessment Appeals Board, in conjunction with a formal “Exchange of Information,” to help facilitate the hearing by having information on the various facts and issues that need to be considered during the hearing.

2. **ASSESSMENT APPEALS BOARD AND EQUALIZATION HEARING OFFICER**

- 2.1 Members of the Assessment Appeals Board and the Equalization Hearing Officer are appointed by the Board of Supervisors pursuant to Section 1622 of the Revenue & Taxation Code.
- 2.2 At the Applicant’s election, the Equalization Hearing Officer can conduct hearings on applications relating to single-family residential & condominiums regardless of value; multi-family dwellings of

four-units or less regardless of value; and other applications where the assessed value is \$500,000 or less. Hearing Officers are also used for administrative protest hearings (See section 13).

- 2.3 Each Applicant meets with the Equalization Hearing Officer and the Assessor's representative in an informal setting. The Equalization Hearing Officer operates alone as opposed to a three-member Assessment Appeals Board.
- 2.4 Decisions of the Hearing Officer in assessment appeals matters are binding upon the parties as set forth in Revenue and Taxation Code Section 1640.

3. **FUNCTIONS/JURISDICTION: EQUALIZATION HEARING OFFICER & ASSESSMENT APPEALS BOARD**

- 3.1 The functions and jurisdiction of the Equalization Hearing Officer and Assessment Appeals Board are:
 - A. To conduct hearings to determine the taxable Full Cash Value of each property for which an application for equalization is made and by reducing or increasing the individual assessment on the local assessment roll.
 - B. To review, equalize, and adjust escaped assessments on the assessment roll except escaped assessments made pursuant to REVENUE AND TAXATION Code Section 531.1.
 - C. To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.
 - D. To exercise the powers specified in the REVENUE AND TAXATION Code Sections 1605.5 and 1613 and other applicable statutes and regulations.
- 3.2 The Board and the Equalization Hearing Officers act in a quasi-judicial capacity and render their decision only on the basis of proper evidence presented at the hearing. Neither the Equalization Hearing Officer nor the Assessment Appeals Board has any legislative power.
- 3.3 Although the Equalization Hearing Officer has limited jurisdiction, the Assessment Appeals Board can hear and equalize all valuation matters.
- 3.4 Their decision is final, and can be appealed to the Superior Court provided Findings of Fact has been requested and prepaid (See Section 24).
- 3.5 Should it be determined that the assessment is to be reduced, the application will be processed, where appropriate, as a claim for refund of excess taxes paid for the relevant tax year (see Section 5).

4. **FUNCTIONS/JURISDICTION: LEGAL HEARING OFFICER**

- 4.1 The functions of the Legal Hearing Officer are different from the functions of the Assessment Appeals Board or the Equalization Hearing Officer. The Legal Hearing Officer makes two types of property-tax related decisions: (1) whether or not a "reassessable event" has occurred that justified a re-appraisal of the property's value (for example, if the property changed ownership or was newly constructed); or (2) **claims for refund of taxes that were collected incorrectly.**
- 4.2 The Legal Hearing Officer cannot hear matters of fair market value.
- 4.3 **If you wish a refund for taxes paid that you believe were erroneously assessed based on reasons other than a reassessable event,** you may do so by filing a Claim for Refund form. Claim for Refund forms are available from the Clerk of the Board Office.

5. **WHAT TYPE OF APPEAL SHOULD I APPLY FOR? (Item 5 –select ONE appeal type per form)**

5.1 **Regular Assessment:** There are two types of appeals of regular assessments. The type of regular assessment appeal filed is determined by the boxes checked in Item 6 on the application.

5.1.1 **Decline in Value** - Applies to situations where the fair market value of the property is below the assessed value for the current tax year. This type of appeal is sometimes referred to as a “Proposition 8” appeal. Relief granted in this circumstance applies only to the year in which the appeal is filed. The base year value of the property is not changed, and the value may be increased to the indexed base year value in future years. You must file each year in which you feel the fair market value is below the assessed value.

5.1.2 **Change in Ownership or New Construction (“Reassessable Event”):**

- Applies to the value of the property as of the date of a change in ownership or the completion of new construction. The change in ownership or new construction triggers a reappraisal and changes the base year value of the property. **Any relief granted in this circumstance will affect the value of the property for future years.**
- The base year value may be appealed during the regular filing period for the year it was placed on the roll or during the regular filing period in the subsequent three years. Although you have up to three years to challenge your new base year value, only the assessment roll **for the year you apply** (base year indexed to year applied) and subsequent years can be amended. You cannot get retroactive relief for prior years. Example: base year 2000, filed assessment appeal application July 2004. If a Base reduction is granted by the Assessment Appeals Board, you will receive a refund for the 2004 tax year (if indexed value is lower) and any subsequent year. NO refund would be made on the 2000, 2001, 2002 or 2003 years where no assessment appeal application was filed.
- For combined appeal of determination that a reassessable event occurred and the determination of fair market value, see section 5.6 below.

5.2 **Supplemental Assessment:** A supplemental assessment is an additional assessment for the year(s) in which there has been a change of ownership or completion of new construction/alteration. If you feel the change of ownership was reassessed in error, please file a **Claim for Refund** (See Section 5.6).

5.3 **Escape Assessment:** Escape assessments are additional bills for corrections to the assessment roll for one or more years. The escape assessment is the result of the Assessor’s discovery of a change in ownership or construction that occurred in prior years or business personal property/fixtures that escaped assessment.

5.4 **Calamity Reassessment:** An application for reassessment may be filed with the Assessors’ Office within 12 months of the misfortune or calamity by delivering to the Assessor a written application requesting reassessment. If the Assessor reassess your property following a misfortune or a calamity and you do not agree with the value determined by the Assessor, you may appeal the reassessed value by marking D in Section 6 on the form. You must file this type of appeal within six months after the mailing of the assessment notice from the Assessor’s Office.

5.5 **Personal Property/Fixtures:** Check this when appealing the assessed value of personal property or fixtures.

5.6 **Reassessable Event (Change in Ownership or New Construction)/Claims for Refund:** Non-valuation issues.

5.6.1 If you wish to appear before the Legal Hearing Officer to protest ONLY the Assessor’s determination that a reassessable event occurred, you may do so through the filing of the Application for Changed Assessment and marking **Item B.1.** (where the reassessment was based on a “change in ownership”) or **Item C.1.** (where the reassessment was based on “new construction”). *The application will be processed solely as a Protest of Assessor’s Determination of a Reassessable Event.*

5.6.2 If you wish to protest BOTH the determination that a reasonable event occurred and the Assessor’s determination of fair market value, mark the appropriate items as above and also mark box 2. *If the Legal Hearing Officer makes a determination that a reassessable event has occurred, the matter will be scheduled for a hearing before the Assessment Appeals Board as to fair market value of the property.*

5.6.3 If you do not dispute the Assessor's determination that a reassessable event occurred but you disagree with the determination of the reassessed fair market value, mark Item B.2. (where the reassessment was based on a "change in ownership") or Item C.2. (where the reassessment was based on "new construction"). The application will be processed solely as an Application for Reduction in Assessment and will be scheduled for a hearing before the Assessment Appeals Board (or Equalization Hearing Officer) as to fair market value of the property (the Legal Hearing Officer cannot hear matters of market value).

6. **CAN I CONSULT WITH THE ASSESSOR?**

6.1 You may contact the Assessor to discuss the valuation of your property either before or after you have filed an Application for Changed Assessment (Assessment Appeal). Talking with the Assessor may help you in understanding the method and data he/she used to assess your property. If you have questions about the value of your real estate, call the Assessee Services Division of the Assessor's Office at **(510) 272-3787**. For questions about business personal property, boats or aircraft call Business Personal Property/Fixtures at **(510) 272-3836**.

6.2 You may also ask that the Assessor "informally review" your assessed value by sending the Assessor's Office a letter requesting such a review. Be sure to include the property identification number and physical address. Identify the fiscal year you are requesting the Assessor to review, provide your opinion of value and any backup data you may have to substantiate your opinion of value.

7. **WHEN IS THE FILING PERIOD?**

7.1 **Regular Assessments Filing Period (Decline in Value, Change in Ownership and New Construction Appeals):** Must be filed with the Assessment Appeals Board between **JULY 2 and SEPTEMBER 15** at 5:00 P.M. Applications filed by mail **must be postmarked by midnight, September 15**. If you did not receive a notice of assessed value prior to August 1, you may file an Application for Changed Assessment no later than **NOVEMBER 30**.

7.2 **Escape Appeals:** Must be filed with the Assessment Appeals Board no later than 60 days from the date of the Notice of Enrollment of Escape Assessment or the postmark date on the envelope in which the notice was mailed, whichever is later. A copy of the "Notice of Enrollment of Escape Assessment" must be attached to your appeal. NOTE: A "NOTICE OF PROPOSED ESCAPE ASSESSMENT" IS NOT THE NOTICE USED FOR FILING AN APPEAL.

7.3 **Supplemental Appeals:** Must be filed within 60 days of the notice date or the postmark date for the notice, whichever is later. A copy of the Notice of Supplemental Assessment must be attached to your appeal.

7.4 **Misfortune or Calamity Reassessment Appeals:** Must be filed within six months after the mailing of the Notice of Revised Value from the Assessor's office for reassessment due to calamity or misfortune.

8. **IS PROPERTY VALUE THE ONLY ISSUE?**

8.1 **YES!** The authority of the Assessment Appeals Board and Equalization Hearing Officer are limited to issues relating directly to the determination of the taxable value of your property. The Assessor is assumed, by law, to have properly assessed your property. The Board or Equalization Hearing Officer can only change the value if you present factual evidence that proves the value to be different. (Exception: Hearing Officer can hear non-value administrative protest hearings, See Requests for Information - Sec 12)

8.2 They **CANNOT**:

- ✓ Fix tax rates, levy taxes or change tax rates.
- ✓ Determine change of ownership issues or other issues within the jurisdiction of the Legal Hearing Officer (See Legal Hearing Officer - Sec 4).
- ✓ Grant exemptions (See Legal Hearing Officer - Sec 4).
- ✓ Reduce your assessment because:
 - ◆ You cannot pay your taxes.
 - ◆ Your assessment has increased over the assessment of previous years.

- ◆ The assessed value of neighboring properties is lower than yours.

8.3 They **WILL**:

- ✓ Resolve disputes concerning the validity of an application
- ✓ Hear testimony from both you and the Assessor to determine fair market value or taxable value.
- ✓ Consider the total value of the entire property, unless the issue is new construction.
- ✓ When an Applicant requests a change in the value of a portion of the entire property (i.e. land and improvement value, etc.), a determination of the fair market value of the entire property will be made and the value of the portion will be changed only if the fair market value of the property as a whole is incorrect.
- ✓ Determine value as of the taxable date(s), i.e., one or more of the following:
 - ◆ Date of purchase or change of ownership.
 - ◆ Date of completion of new construction.
 - ◆ January 1 for personal property and that portion of real property under construction.
 - ◆ January 1 if the Assessor's taxable value exceeds fair market value on that date.
- ✓ Receive evidence to establish the fair market value. The best evidence to determine fair market value is often the **purchase price** of the property. Also, **comparable sales** information for similar properties under similar circumstances is an indication of fair market value (See Section 22.1). For income-producing properties, **income and expense** information and **comparable rentals** are also important.
- ✓ Determine the full taxable value of your property; the value can be either increased or decreased.
- ✓ The Assessment Appeals Board or the Equalization Hearing Officer is not bound to accept one of the opinions of fair market value submitted by the parties.

9. **HOW DO I COMPLETE THE APPLICATION?**

- 9.1 Answer all questions and complete all blanks if they apply to your case. An application, which does not contain all essential information, will be declared invalid and shall not be accepted by the Board. Notice of the Application's invalidity will be provided to the Applicant, and a reasonable opportunity to correct errors or omissions will be given. Remaining disputes concerning the validity of an application shall be resolved by the Assessment Appeals Board or the Equalization Hearing Officer.
- 9.2 Date the form and sign your name. Your original application **MUST** have an original signature.
- 9.3 **File an original and one copy of the application.** If you are providing backup documents for the Assessor's review, provide only one (1) set. This information will be forwarded to the Assessor and will NOT be retained by the Clerk of the Assessment Appeals Board. Attaching supporting documents will help expedite the process and may eliminate the need for a hearing.
- 9.4 If you are filing outside the regular filing period, you must attach a copy of your notice of new value (supplemental assessment) or your new notice of escaped assessment (escape assessment). Attaching supporting documents will help expedite the process.
- 9.5 **File a separate application for each Assessor's Parcel Number or Assessee Account Number.**
- 9.6 **File a separate application for each assessment year being contested.**
- 9.7 Contact the Clerk of the Assessment Appeals Board if you have any questions about completing the application.
- 9.8 Applications signed by a corporate officer or authorized employee of the business entity **must** include the person's title under his/her signature. *If an agent signs for a corporation, a corporate officer or authorized employee of the business entity must also sign the authorization.* All signatures must be original.
- 9.9 The Agent Authorization (Item 2 on the form) must be completed by the Applicant and contain original signatures. You may elect instead to attach an agent's authorization to the application. The attached authorization **must** include: 1) The date the authorization is executed; 2) A statement that the agent is authorized to sign and file the application in the calendar year of the application; 3) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the Applicant on all parcels and assessments located

within the county that the application is being filed; 4) The name, address, and telephone number of the agent; 5) The Applicant's signature and title; and 6) A statement that the agent will provide the Applicant with a copy of the application. If submitting an attached agent authorization, you **must** indicate on the form that the authorization is attached. It is recommended that you retain a copy of the Agent Authorization.

9.10 All documents submitted with your appeal must be on 8 1/2" x 11" standard size paper. **NO LEGAL SIZE DOCUMENTS WILL BE ACCEPTED.**

9.11 You will be notified by postcard that your application has been received and issued a reference number by the Assessment Appeals Board Clerk/Administrator. Please retain that postcard and use your reference number when inquiring about your appeal. Please allow a minimum of 90-days to receive your postcard. If you have not received a postcard within six months of the date of mailing, please contact our office at (510) 272-3854.

9.12 All correspondence and notices are sent to the address shown on the application. It is your responsibility to notify the Assessment Appeals Office immediately if you have had a change of address, phone number or agent. The Applicant will receive all correspondence and notices unless an agent has been authorized to act on your behalf. If an agent has been authorized, then all correspondence will be sent to that individual or company until instructed in writing by the Applicant to do different.

10. **WHICH FORM DO I USE?**

10.1 **Application for Changed Assessment** - The State Board of Equalization implemented a Statewide standard form. The form is updated and approved by the State periodically and can only be altered in certain areas by individual counties. Therefore, if you file on another form, you will be required to re-file on the current form, which has been mandated and approved by the State Board of Equalization.

10.2 **Claim for Refund** - Any property assessment issue that is not the value being assessed but rather the right to assess (See Sections 4 and 5).

11. **WHAT IS AN AGENT'S AUTHORIZATION?**

11.1 Any person purporting to act as agent for the Applicant shall complete Section 2 of the application or attach an agent's authorization, which includes the information, listed in Section 9.9. The agent's authorization **must** be signed by the Applicant for the agent to represent the Applicant at the hearing unless the agent is an attorney retained by the Applicant for this purpose. If the Applicant is a corporation, the agent's authorization must be signed by an officer of the corporation or an authorized employee of the business entity. An appearance by an officer or employee of a corporate applicant or by a husband, wife, son or daughter requires no written authorization.

11.2 All correspondence, notices etc. will be sent to the individual/company listed as the Agent on the application. It is the agent's responsibility to convey same to Applicant.

11.3 It is the Applicant's responsibility to notify the Assessment Appeals Board Office of any change in agent status or location.

12. **CAN THE ASSESSOR REQUEST ADDITIONAL INFORMATION AND WHAT HAPPENS IF I DO NOT RESPOND?**

12.1 The Assessor under Revenue and Taxation Code Section 441(d) may require you to submit additional information in order to evaluate the current appraisal of your property. This is part of the initial evaluation process and prior to any request for an exchange of information as explained in Section 14. **DO NOT CONFUSE THIS WITH AN "EXCHANGE OF INFORMATION" REQUEST FROM THE ASSESSOR'S OFFICE.**

12.2 You should respond immediately to the request. If a taxpayer fails to provide information to the assessor pursuant to a Revenue and Taxation Code Section 441(d) request and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period **specified** in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

13. **WHAT IS A PROTEST HEARING?**

- 13.1 If you have received a Notice of "Suspension of Hearing", extending your two-year period, either as part of Revenue and Taxation Rules 309 (controlling litigation) or 441 (Assessor's request for information), you have a right to challenge that extension. If you believe that the Assessor's request for information is invalid, that the information has already been provided, or that there is no controlling litigation that would prohibit a determination of your appeal, you may in writing request a protest hearing.
- 13.2 A Hearing Officer selected from the Assessment Appeals Board Members panel will sit to determine the validity of the Notice of Suspension of Hearing.
- 13.3 Both parties will be asked to provide evidence and testimony regarding the suspension.
- 13.4 The Hearing Officer will make a determination based upon the evidence submitted and forward that recommendation to an Assessment Appeals Board (upon which the selected Hearing Officer would not sit). The Board will then ratify the recommendation of the Hearing Officer and the order will become final and appealable only to the Superior Court.
- 13.5 In the event the Applicant prevails, the suspension of hearing will be removed and the original two-year period will remain in effect.
- 13.6 In the event the Applicant does NOT prevail, the suspension of hearing will be in place and the original conditions set forth in the notice will be in effect.

14. **WHAT IS AN EXCHANGE OF INFORMATION?**

- 14.1 At the time of filing your application, and up to 30 days before the commencement of the hearing, you have the right to file with the Assessor (with a copy to the Clerk/Administrator) a written request for an "**Exchange of Information.**" The request for "Exchange of Information" requires that you provide the evidence or documents that you intend to present at the assessment appeal hearing in exchange for the Assessor's documents. The purpose of the exchange is to allow both sides to become familiar with each other's case, in advance of the hearing, so that they may be prepared to comment on opposing evidence at the time of the hearing. The information that must be disclosed, to the extent that you are relying upon such evidence, is set forth below under sections 14.2 through 14.4.
- 14.2 **COMPARABLE SALES DATA:** If the opinion of value is to be supported with evidence of comparable sales, 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 a description of the property, including the age and area of the improvement, and the land area; the approximate date of the sale, **not to exceed 90 days after the date of valuation**; the price paid; the terms of the sale, if known; and the zoning of the property.
- 14.3 **INCOME DATA:** If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow) and rate or rates employed.
- 14.4 **COST DATA:** If the opinion of value is to be supported with evidence of replacement costs, there shall be presented with regard to:
- ✓ Improvements to real property: the date of construction, type of construction, and replacement cost of construction.
 - ✓ Machinery and equipment: the date of installation, installed cost, and any history of extraordinary use.
 - ✓ Both improvements and machinery & equipment: facts relating to depreciation, including any functional obsolescence, and remaining economic life.
- 14.5 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 all of the details of your intended evidence be exchanged, but at the hearing you will be permitted to introduce only evidence pertaining to the information that you included in the exchange (unless the Assessor consents to the introduction of other evidence).
- 14.6 **If one party initiates a request for information and the other party does not comply at least 15 days prior to the Hearing, the Board may grant a postponement for a 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 non-complying party, the hearing will be convened as originally scheduled and the non-complying party may comment on evidence**

presented by the other party but shall not be permitted to introduce other evidence presented unless the other party consents to such evidence.

- 14.7 The Assessor, in those cases where the assessed value of the property involved exceeds \$100,000, may also file a request for an **“Exchange of Information”** under the requirements of subsections 14.1-4. The Assessor shall forward the request to the opposing party and file a copy of the request with the Clerk/Administrator.
- 14.8 If a party has forwarded a written request to participate in an exchange of information along with the required evidence (subdivision 14.2-4) within the time specified, at least 30 days prior to the hearing, the other party shall submit to the party who caused the exchange of information a written response which shall contain the same type of data as provided in subsection 14.2-4 in support of their opinion, at least 15 days before the hearing. **A copy of the cover letter stating the documents exchanged and the completed “Summary of Facts & Issues” form (Section 14.10) shall be mailed to the Clerk at least fifteen (15) days before the hearing.**
- 14.9 *It should be noted that if you are requested to participate in an Exchange of Information, the RESPONSE must include **all** documents/evidence you intend to present at the hearing, except for rebuttal evidence, even if you have previously submitted that information/documentation to the requesting party at an earlier time.* Documents that were submitted to the Clerk along with your application, which are forwarded to the Assessor’s Office for the purpose of assisting the parties in an attempt to reach an agreement/stipulation, will NOT be considered towards compliance with a request for exchange of information.
- 14.10 **Summary of Facts & Issues Form:** The Assessment Appeals Board instituted the completion of this form in order to help expedite the hearing process. This form outlines and focuses on the areas of dispute between your opinion of value and that of the Assessor. You are required to complete this form if you are participating in a formal Exchange of Information.
- 14.11 Again, whenever an exchange of information has been properly initiated, the parties may be prevented from introducing evidence at the hearing that has not been timely exchanged unless the other party consents to introduction of other evidence.

15. **HOW/WHEN WILL I BE NOTIFIED OF THE HEARING?**

- 15.1 You will be notified of the time, place, and date of hearing at least 45 days in advance, unless a shorter notice period has been stipulated to by the Assessor and the Applicant or the Applicant’s agent pursuant to section 1605.6 of the Revenue & Taxation Code. **THIS IS THE ONLY NOTICE YOU WILL RECEIVE.**
- 15.2 It is important that you appear as scheduled. If you fail to appear, your application will be denied.
- 15.3 No request for continuance will be considered by the Board or Hearing Officer unless the Applicant has a completed **“1604(C) Waiver Agreement”** on file with the Clerk.
- 15.4 If you wish to withdraw your application, you must inform the Clerk in writing.
- 15.5 If your mailing address changes, it is your responsibility to notify the Clerk of such change. You must identify each application number associated with the change of address.
- 15.6 Prior to being scheduled for hearing, the Assessor will review your application. The Assessor may require information from you in order to properly assess your property. You must comply with the Assessor’s request for information. (See Section 12).

16. **MUST I PERSONALLY APPEAR AT THE HEARING?**

- 16.1 The Applicant must appear personally at the hearing, except as otherwise provided in these instructions or be represented by an authorized agent who shall be thoroughly familiar with the facts pertaining to the matter before the Board. Any person (other than the Applicant’s attorney retained for this purpose) purporting to act as agent for the Applicant shall prior to the hearing provide written authority, signed by the Applicant, to represent the Applicant at the hearing. An appearance by an officer or employee of a corporate Applicant or by a relative mentioned in Section 11 requires no written authority.

17. **IS THERE A RECORD OF THE HEARINGS?**

- 17.1 The Board hearings are recorded by electronic recording devices. In the event that you wish to listen to the recording, you should make arrangements with the Clerk’s Office. You may also

purchase a copy of the recording from the Clerk within 60 days after the final determination of the Board (Please see the Clerk regarding the cost.) You may arrange for written transcripts of the proceedings at your own expense.

- 17.2 Any Applicant may arrange for their own recording of the hearing proceedings, either by electronic recorder or by a court reporter with all costs to be paid by the Applicant. Should you choose this option, a copy of the recording or transcript shall be delivered to the Clerk/Administrator upon completion and made a part of the record.

18. **HOW ARE THE HEARINGS CONDUCTED?**

- 18.1 On the day of the hearing, the Clerk will administer an oath to you, the Assessor's representative and other witnesses.
- 18.2 The Chairperson of the Board will ask the Assessor's representative to describe the property, state the property's current taxable value and the nature of the application. Then you will be asked to state your opinion of value and the facts you rely on to support your opinion. If the property is an owner-occupied, single-family residence, the Assessor's representative will be requested to present the Assessor's case first. Then you will be requested to present your evidence. (See Section 19).
- 18.3 Both you and the Assessor may question or cross-examine each other about the other's evidence.
- 18.4 At the conclusion of the hearing, the Board/Hearing Officer will either announce its decision or take the matter under submission and the Clerk will notify you in writing of the decision at a later date. If the decision is announced at the hearing, no further written notice will be given.

19. **WHO HAS THE BURDEN OF PROOF?**

- 19.1 The law presumes that the Assessor has properly performed his duty and has assessed properties fairly and upon an equal basis. Except in those situations described in Section 19.2, the Applicant has the initial burden of proof. The law requires that you, as the Applicant, present relevant evidence in support of your opinion of the fair market value of the property. If you fail to present relevant evidence, the Board or Hearing Officer will not require the Assessor to go forward with the case. If the evidence that you do present is insufficient to support your opinion of fair market value, the Board or Hearing officer may rule that you have not met your burden of proof, and can find in favor of the Assessor without the Assessor offering evidence in support of their assessment.
- 19.2 The Assessor has the burden of proof, and will be required to present the Assessor's case first, in the following situations:
- a) The assessment in question is a penalty assessment.
 - b) The assessment is of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the Applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the Assessor.
 - c) A change in ownership and the Assessor has not enrolled the purchase price, and the Applicant has provided the change of ownership statement provided by law. The Assessor bears the burden of proving by a preponderance of evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.
 - d) When the Assessor sends an applicant a *raise letter* notifying the Applicant that the Assessor intends to request that the Appeals Board find a higher assessed value than is on the roll, the Assessor no longer has the presumption that he has properly performed his duties. However, if the applicant has failed to supply all the information required by law to the Assessor, the Assessor maintains the presumption of correctness. If the Applicant has supplied all required information, the Assessor must present evidence first at the Hearing to substantiate the higher value.

20. **MAY I PRESENT WITNESSES?**

You may have someone who has knowledge of the value of your property testify for you under oath. If you submit as evidence of market value an appraisal, realtor's opinion, geographic study, engineering report, or any data prepared by someone other than yourself, the person(s) preparing the material should be present at the time of the hearing to be questioned by the Board or Hearing Officer and the Assessor's representative.

21. **HOW DO I PRESENT WRITTEN EVIDENCE?**

- 21.1 If you submit written evidence to the Board or Hearing Officer, **FIVE (5) COPIES** are required at the time of hearing.
- 21.2 Photographs, maps, charts, or other records or receipts may be helpful to you in supporting your opinion of the fair market value. By law, any exhibits you submit at the hearing must be retained as a part of the permanent record.
- 21.3 Evidence may be received by the Assessment Appeals Board provided it tends to explain, contradict or disprove evidence offered by the other party.
- 21.4 *Documents submitted along with your application, which are forwarded to the Assessor's Office for the purpose of assisting the parties in an attempt to reach an agreement/stipulation, will NOT be forwarded to the Board Members and will NOT be considered evidence.*

22. **WHAT EVIDENCE CAN THE BOARD/HEARING OFFICER CONSIDER?**

- 22.1 Decline in Value appeals: Comparable sales used as evidence for a regular assessment must be no more than **90 days** from the Lien Date (January 1) of the year in which you are appealing, For example, a FY 2005-06 appeal filed between July 2 and September 15, 2005 must contain evidence (comparable sales, appraisal, etc.) which is not more recent than March 31, 2005. April 1, 2005 evidence is not acceptable and the Board or Hearing Officer cannot take that evidence into consideration. **PRIOR TO 1997 THE LIEN DATE WAS MARCH 1st AND THE 90-DAY RULE OF EVIDENCE WOULD APPLY ACCORDINGLY.**
- 22.2 For Base Year, Supplemental, and Escape appeals: Evidence cannot be any more than 90 days from the valuation date.
- 22.3 The value may be either raised or lowered, depending on the evidence presented at the hearing. The Board is interested in knowing:
- ✓ Your opinion of the value of your property - what you would accept for it if it were for sale.
 - ✓ Use to which it was put on the date of valuation.
 - ✓ Potential uses considering business conditions and surrounding area.
 - ✓ Physical characteristics of the land and conditions of improvements, buildings, etc.
 - ✓ Problems concerning access.
 - ✓ Available utilities - water, sewer, etc.

23. **WHAT EVIDENCE CANNOT BE CONSIDERED BY THE BOARD/HEARING OFFICER?**

The following types of evidence are not permitted by law for consideration by the Board:

- ✓ Prior assessment or taxes on your property.
- ✓ Assessments of neighboring property.
- ✓ Opinions of persons who are not present at the hearing for questions concerning the basis of that opinion.
- ✓ Prior knowledge of the subject property, information presented outside of the hearing or personal research.
- ✓ Evidence not relating to the exchanges of information.

24. **WHAT ARE FINDINGS OF FACT?**

- 24.1 A notice of the Board's decision will be sent to you at no cost. However, if you wish to have written findings of fact, (a written summary of the basis for the decision), it will be prepared for a non-refundable fee of \$160.00 per parcel (maximum \$480).
- 24.2 The request for findings **MUST** be in writing, **MUST** be prepaid and **MUST** be requested prior to commencement of your hearing.
- 24.3 Findings are necessary only if the Applicant or Assessor intend to seek judicial review of an adverse Board decision.

25. **HOW DOES THE BOARD/HEARING OFFICER REACH A DECISION?**

- 25.1 Acting upon the evidence properly before them, they will determine the full cash value of the property, including both real and personal property, which is the subject of the hearing, and apply the inflation factor, if applicable. The determination of the full cash value shall be supported by a preponderance of the evidence presented during the hearing. No greater relief may be granted than is justified by the evidence produced.
- 25.2 A motion and order to deny an application or any portion thereof shall be deemed to be a determination or finding that: The full cash value or fair market value of the property, 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; or, in the alternative and when so specified that: **(a)** The Applicant has not met the burden of proof by establishing a prima facie case for the reduction in assessed value; or; **(b)** In the event the Applicant does not appear at the hearing on the date and time noticed, the Board may deny the application for lack of appearance.
- 25.3 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 taxable value of other portions that have not undergone a change in ownership, new construction or a decrease in value. Additionally, the Board/Hearing Officer shall, on its own motion or at the Assessor's request, determine the market value of the entire appraisal unit wherever that is necessary to the determination of the market value or any portion thereof.
- 25.4 The Board/Hearing Officer shall be bound by the same principles of valuation that are legally applicable to the Assessor.
- 25.5 When valuing a property by a comparison with sales of other properties, the Board/Hearing Officer may consider those sales which, in their 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 90 days after the date for which value is being estimated.** The Board shall presume that zoning or other legal restrictions, of the types described in REVENUE AND TAXATION Code 402.1, 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.
- 25.6 When written findings of fact are made they shall fairly disclose the Board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full cash value of the property, and shall be made timely after the hearing.
- 25.7 The Board/Hearing Officer can neither raise nor lower the entire local roll.

26. **WHEN WILL THE BOARD ANNOUNCE ITS DECISION?**

The Board/Hearing Officer may announce the decision to the parties at the conclusion of the hearing, or take the matter under submission. If the matter is taken under submission, the Clerk shall notify the Applicant in writing of the decision of the Board (addressed to the Applicant or to the Applicant's agent, at the address given in the application.) Where written findings of fact are requested, the Board shall take the matter under submission and render a decision, which is entered into the record. The findings of fact are then prepared and distributed to the parties.

27. **CAN THE APPLICATION BE RECONSIDERED AND REHEARD?**

- 27.1 The decision of the Board upon an application is final. The Board shall not rehear or reconsider an application or modify a decision unless: 1) The decision reflects a ministerial clerical error; or 2) The decision was entered as the result of the Applicant's failure to appear for the hearing and within the period established pursuant to Property Tax Rule 313, the Applicant furnishes evidence establishing, to the satisfaction of the Board, excusable good cause for the failure to appear.
- 27.2 Decisions of the Hearing Officer in assessment appeals matters are binding upon the parties as set forth in Revenue and Taxation Code Section 1640.

28. **WHERE CAN I FIND THE ASSESSMENT APPEALS BOARD RULES?**

- 28.1 This material provides you with basic information necessary to file and represent yourself. Should you desire to become familiar with the Assessment Appeals Board Rules, they are contained principally in the California Revenue and Taxation Code § 1601-1641 and in the Title 18 Public Revenues, California Code of Regulations, § 301-326. A good compilation of all the laws relating to property taxes may be found in **California Property Tax Laws** published by the State Board of Equalization. All of the laws and regulations governing tax assessments and appeal procedure may be found in the County Law Library branches located in Oakland and Hayward.

29. **CAN I HAVE SOMEONE REVIEW THE ASSESSMENT OF MY PROPERTY WITHOUT GOING THROUGH THE APPEAL HEARING PROCESS?**

- 29.1 YES: Recent legislation allows the Assessor's Office to provide an "informal review" of your assessment and lower that assessment if there is concurrence.
- 29.2 Write a letter to the Assessor, be sure to provide your property reference number (Assessor's Parcel Number or Account Number), the physical address of the property, your opinion of value and the reason for your opinion of value. It is in your best interest to provide as much evidence to support your opinion of value. If you disagree with the Assessor's determination of value, you may file an Application for Changed Assessment during the regular filing period.
- 29.3 Be sure to write "INFORMAL REVIEW" on the outside of the envelope to insure appropriate routing of your letter. Although the request can be outside the normal timeframe of the regular filing period, you must allow ample time for review of your request if you are to be granted a reduction and possible refund.

30. **IF I HAVE FURTHER QUESTIONS?**

- 30.1 If you need more details, or have questions, please contact the **Clerk of the Assessment Appeals Board at (510) 272-3854 or (510) 834-6754 (TDD).**

If you have questions regarding the basis of your **real property assessment** contact the **Assessor's Office at (510) 272-3787 or for business property assessment call (510) 272-3836.**

If you have questions regarding your **tax bill or notice** contact the **Tax Collector at (510) 272-6800.**

LOCATION OF THE ASSESSMENT APPEALS BOARD OFFICE:
 Alameda County Administration Building
 1221 Oak Street, Room 536
 Oakland, CA 94612

APPEALS MAY BE MAILED TO:

Assessment Appeals Board P. O. BOX 1499 Oakland, CA 94612-1499	or	Assessment Appeals Board Alameda County Administration Building 1221 Oak Street, Room 536 Oakland, CA 94612
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This document was prepared by the Clerk of the Board of Supervisors