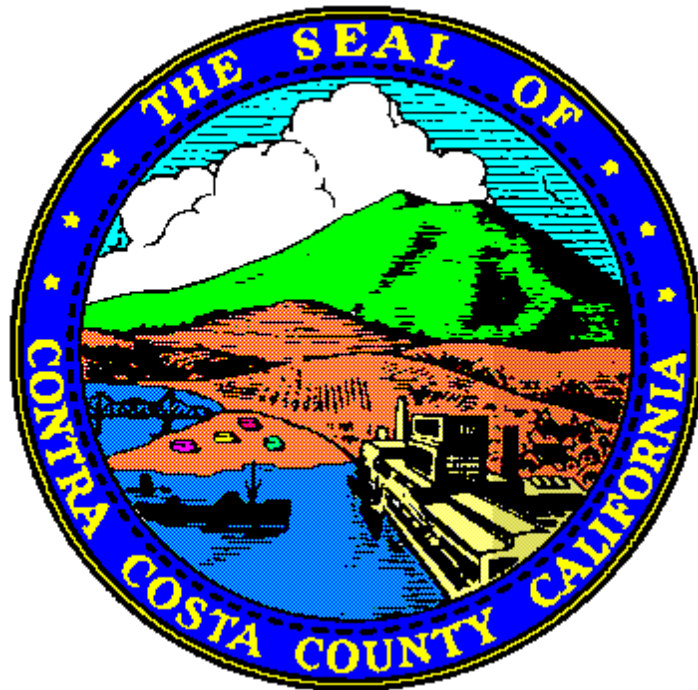


# CONTRA COSTA COUNTY

## ASSESSMENT APPEALS BOARD

### LOCAL RULES OF PROCEDURE



**AMENDED AND RESTATED RULES**  
adopted by the County Board of Supervisors on September 11, 2018

**CONTRA COSTA COUNTY  
ASSESSMENT APPEALS BOARD**

**Rule A. Defective Applications and Amendments**

1. If an application is filed within the time required by law, it may be amended to avoid invalidity, subject nevertheless to Rule 305(e) [Title 18, California Code of Regulations, Section 305(e)], and these local rules.
2. The Clerk of the Assessment Appeals Board is authorized, but not required, to notify applicants respecting possible defects in an application, and of the applicant's right to amend such application.
3. When the Clerk has given notice to an applicant of a possible defect in an application, and the defect has not been remedied within 15 days of the date of mailing such notice, the Clerk shall place the application on the Board agenda for a hearing on the validity of the application, and all parties shall be given notice of such hearing.
4. If the Board determines an application is valid, it shall be heard on its merits or the Clerk shall set it for hearing on the merits at a later date. If the Board finds the application invalid, it shall not thereafter be heard, acted upon, or amended.
5. Notwithstanding the above procedures, the question of the validity of an application may be raised and decided at the time of the hearing on applicant's request for reduction of assessment, providing no prior decision has been made by the Board on the specific defect placed in issue at the hearing.
6. When the Board has made no determination respecting the validity of an application, it may be amended under local rule A-1 at any time prior to the hearing, but not thereafter, except that with permission of the Board and for good cause such application may be amended after the hearing has begun but before submission of the matter for decision.

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**Rule B.       Late Applications**

When it appears that application has not been filed within the time set by law, the Clerk shall set the application for hearing before the Board on the question of timeliness only, and give notice of such hearing to the parties.

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**Rule C. Discovery and Prehearings**

1. This Rule will apply only to valuation disputes where the Assessor's opinion of value is \$10,000,000 or more or the Assessor has sent an RTC Sec. 441(d) request for information to the Applicant.
2. Either the Applicant or Assessor may request that the Board hold a discovery prehearing.
3. A discovery prehearing request by the Assessor should be made prior to 6 months before the end of the 2-year period of RTC Sec. 1604(c) (or the extended time if a waiver has occurred), so as to allow adequate time to resolve discovery issues and timely prepare and complete the hearing.
4. A discovery prehearing request by the Assessor should be made prior to 6 months before the end of the 2-year period of RTC Sec. 1604(c) (or the extended time if a waiver has occurred), unless the Applicant signs a waiver extending the 2-year period.
5. Pursuant to Rule 309(e) and 305.2(b), the Board will provide the Applicant and Assessor 30 days' written notice of the date, time and place of the prehearing, including notice that:
  - a. A Rule 305.2 prehearing will be held to determine the status of the Applicant's compliance with the Assessor's RTC Sec. 441(d) request for information or other discovery.
  - b. At the prehearing, the Applicant will have an opportunity to protest any denial of hearing within the 2-year period of RTC Sec. 1604(c) and to explain its position regarding any alleged failure to fully comply with a proper Assessor's RTC Sec. 441(d) request for information.
  - c. If the Board determines that the Applicant has not complied fully with a proper Assessor's RTC Sec. 441(d) request for information, the Board may render a discovery order that (inter alia):
    - i. Requires the Applicant to divulge the information needed to fully comply with the Assessor's request for information.
    - ii. Specifies that the RTC Sec. 1604(c) 2-year limit will be suspended until:
      - A. the Applicant fully complies with the request for information,
      - B. the Assessor has time to analyze the information provided and request that the valuation hearing be set, and

C. the Board thereafter sets, hears and decides the matter.

6. At the discovery prehearing, the Applicant will have an opportunity to explain its position regarding any alleged failure to fully comply with a proper Assessor's RTC Sec. 441(d) request for information and to protest any denial of hearing within the 2-year period of RTC Sec. 1604(c). The Board may hear any arguments and evidence it deems appropriate regarding the need for discovery and compliance with a discovery request. If the Board determines that the Applicant has not complied fully with a proper Assessor's RTC Sec. 441(d) request for information, the Board may render a discovery order that (inter alia):
  - a. Requires the Applicant to divulge the information needed to fully comply with the Assessor's request for information.
  - b. Specifies that the RTC Sec. 1604(c) 2-year limit will be suspended until:
    - i. the Applicant fully complies with the request for information,
    - ii. the Assessor has time to analyze the information provided and request that the valuation hearing be set, and
    - iii. the Board thereafter sets, hears and decides the matter.

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**Rule D.           Withdrawal**

An applicant may file a request to withdraw an application at any time before or at the time of the hearing, unless the Assessor has given written notice of a higher assessed value pursuant to Revenue and Taxation Code section 1609.4 and Property Tax Rule 313(f). If the Assessor has given this notice, the application may be withdrawn only if the applicant or the applicant's agent, and the assessor, stipulate in writing to the withdrawal. A form is available from the Clerk of the Board.

The Board may deny a withdrawal request and set the application for hearing.

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**Rule E.       Stipulations**

Pursuant to Revenue and Taxation Code section 1607, an applicant and the Assessor may stipulate in writing to a change in value. A written stipulation as to the full value and assessed value of a property must set forth the facts upon which the change in value is premised, and must be signed by the Assessor and the county legal advisor on behalf of the county, and by the applicant or applicant's agent. If the board receives a written stipulation to a change in value, the board may, at a hearing:

1.     Accept the stipulation, waive the appearance of the applicant or applicant's agent, and change the assessed value pursuant to Revenue and Taxation Code section 1610.8; or
2.     Request that the assessor provide additional information upon which the change in value is premised; or
3.     Reject the stipulation and set the application for hearing.

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**Rule F.           Continuance for Failure to Confirm Appearance**

Not later than fifteen (15) days after the date of the Notice of Hearing, applicants are required to advise the Clerk of the Assessment Appeals Board either (a) that they intend to be present at the hearing as scheduled (b) that they withdraw their application for reduction in assessment, or (c) that they request a different hearing date. In the event that an applicant fails to so advise the Clerk of the Assessment Appeals Board, and the Assessor requests that the hearing be continued to permit preparation of the Assessor's case, the Assessment Appeals Board shall grant the Assessor a continuance for not less than fifteen (15) days.



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**Rule G. Failure to Appear for Hearing**

1. If neither the applicant nor the applicant's agent is present at a properly noticed hearing on the application, and no request for postponement of the hearing has been received, the application shall be denied for lack of appearance, unless the assessor has given written notice of a higher assessed value pursuant to Revenue and Taxation Code section 1609.4 and Property Tax Rule 313(f).
2. The denial of an application for lack of appearance by the applicant or the applicant's agent is not a decision upon the merits of the application and there shall be no change to the enrolled assessed value of the property.
3. Not later than 30 days after the Clerk of the Assessment Appeals Board has mailed a copy of any decision denying an application under Rule 313 for lack of appearance, the applicant or the applicant's agent may file with the Clerk a written request verified under oath or penalty of perjury, that the Board vacate the denial and set the matter for hearing.
4. A request filed under Local Rule G.3 must include a statement of the particular facts and reasons upon which the applicant bases his or her claim that the denial should be vacated.
5. After notice to the applicant and the Assessor and after hearing, the Board will grant or deny the request. At hearing, the applicant is required to prove by clear and convincing evidence that his or her failure to appear, or that of the applicant's agent, was the result of unforeseen and compelling circumstances beyond the applicant's control, which arose in such manner as to make a timely request for continuance impossible.

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**Rule H. Notice of Decision and Findings of Fact**

1. An applicant or applicant's authorized representative, or the Assessor, may request the board to prepare written findings of fact by submitting a written request with the clerk prior to the commencement of the hearing and paying the required fee to the clerk before the conclusion of the hearing.
2. The requesting party may abandon the request and waive written findings at the conclusion of the hearing. If the request is abandoned, the other party may orally or in writing renew the request at the conclusion of the hearing along with payment of the required fee. The board may deny any request to waive written findings of fact that is made after the conclusion of the hearing.
3. The board need not prepare written findings if, at the conclusion of the hearing, the requesting party, or the party renewing a request after the request was abandoned, fails to pay the required fee.
4. Written findings of fact must fairly disclose the board's findings on all material points raised in the application and at the hearing. The written findings shall also include a statement of the methods of valuation used in determining the full value of the property.

General procedures

Except in cases where the major case procedures apply, the Board will follow the general procedures set forth below:

5. The board may request any party to submit proposed written findings of fact. The board shall provide the other party an opportunity to review and comment on proposed findings submitted to the board. If both parties prepare proposed findings of fact, the board need not provide any opportunity to review and comment on the proposed findings of fact.
6. The board may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission and upon reaching a decision, provide written notice of the board's decision to the parties.
7. Where no findings of fact are requested by any party and the matter is taken under submission, the board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing.
8. Where findings of fact have been requested and the matter is taken under submission:
  - a. The board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing, and the board shall issue written findings of fact to the parties within 45 days after the date the notice of decision is issued.

- b. Notwithstanding the above, if at the conclusion of the hearing an applicant or applicant's authorized representative requests that the board's decision become final on the date of issuance of the findings of fact for the purposes of further appeal, the findings of fact shall be issued no later than 180 days after 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 or applicant's authorized representative shall agree in writing to extend the two-year period for a period equal to 180 days from the date of conclusion of the hearing.

#### Major case procedures

In cases where findings have been requested and the Assessor's opinion of value is \$10,000,000 or more, the Board will follow the major case procedures set forth below:

9. A hearing may be completed as to evidence, but will not be deemed concluded until completion of any argument and briefing. A written proposed decision will be rendered by the Board within 45 days of the conclusion of the hearing.
10. The decision will be subject to modification and will not become final until the findings are adopted.
11. If the Board deems that the proposed decision clearly favors one party over the other, the Board may designate the prevailing party to prepare proposed findings. If the Board does not deem that the proposed decision clearly favors one party over the other, both parties may be designated to prepare proposed findings. The party (or parties) designated to submit findings may, but is not required to, submit proposed findings. Proposed findings must be submitted within 15 days of the designation of the party (or parties) to prepare findings. If proposed findings are not submitted by the designated party (or parties), the Board will prepare its own findings.
12. If a prevailing party has been designated to prepare proposed findings, the opposing party may respond to the proposed findings if it does so within 15 days.
13. If both parties have been designated to prepare proposed findings, each party may respond to the proposed findings submitted by the other party if it does so within 15 days.
14. If a party (or parties) designated to prepare findings fails to prepare proposed findings, the party (or parties) shall be deemed to have waived all objections to the findings adopted by the Board. If a party (or parties) fails to respond to proposed findings prepared by the opposing party, the party (or parties) shall be deemed to have waived all objections to the findings adopted by the Board.
15. The Board may, but is not required to, hold a hearing on the proposed findings and responses thereto. Any such hearing is to be set within 15 days of the time for receiving the responses to proposed findings.

16. The Board shall render its findings within 15 days of the time for receiving the responses to proposed findings or, if a hearing on findings is held, within 15 days of the end of the hearing.
17. The Board may extend any of the forgoing times for up to 45 days; provided, however, that the findings and final decision must be adopted within 180 days of the close of the hearing. Should the extension of times preclude a final decision within two years of filing of the application, the Applicant will be expected to stipulate to said extension of time as well as waive all rights under Rule 309 and Revenue and Taxation Code Section 1604 and any other law during that time period.
18. The proposed decision may be modified to accord with the findings adopted by the Board. The proposed decision will become final upon adoption of the findings.

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**Rule I. Official Local Board Forms**

The following forms are adopted as official forms for assessment appeals before the Assessment Appeals Board. The Assessment Appeals Board may modify the forms for use in any given case. The Assessment Appeals Board and its Clerk may adopt other forms.

Application for Reduction in Assessment

Notice of Invalid Application

Notice of Hearing

Decision after Hearing

Stipulation and Decision

Summary Findings of Fact

Denial of Application for Lack of Appearance

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**Rule J. Time for Hearing**

Except in cases where there is controlling litigation pending or where the Assessment Appeals Board and the applicant mutually agree in writing or on the record to extend the time to hear the appeal pursuant to Revenue and Taxation Code section 1604(c) and Property Tax Rule 309(c), the clerk shall schedule each application for a hearing to occur no later than twenty-two (22) months after the date on which the application was filed. Any request to continue a hearing to a date more than twenty-two (22) months after the filing date will be granted only for good cause with the approval of the Board.

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**Rule K. Other Prehearing Matters**

At the request of either party, or on its own motion, the Board may set a prehearing on 30 days' notice to the Applicant and Assessor to discuss and determine the following procedural matters, as the Board deems appropriate:

1. Discovery (see Local Rule C).
2. Stipulations as to fact and methodology, and the possibility of resolving the entire matter by agreement.
3. Clarification and specification of the issues to be tried.
4. Combining application and bifurcating hearings.
5. Specifying times for discovery and hearing.
6. Resolving issues of timeliness and adequacy of applications (see Local Rules A and B).
7. Recording or transcribing the hearing, and sharing of the costs therefore.
8. Exchange of exhibits prior to hearing.
9. Prehearing briefing.
10. Limiting evidence, in advance of hearing.
11. Exclusion of witnesses.
12. Closure of the hearing to non-parties.
13. Determining the burden of proof and order of proceeding.
14. Any other matter of a procedural nature.