

What is an assessment appeal?

An assessment appeal is the due process a taxpayer may initiate if the assessed value of his or her property cannot be agreed upon with the county assessor. Your county's appeals board, a quasi-judicial body consisting of impartial persons or a hearing officer, hears evidence from both parties before deciding upon the value of the property in question. The assessment appeal process provides for the 'equalization,' or the fairness of the assessment, of a property's value.

What is the legal authority for the assessment appeal process?

Section 16 of Article XIII of the California Constitution provides for the establishment of local boards of equalization. The Legislature enacted sections 1601 through 1645.5 of the Revenue and Taxation Code to provide for the statutory requirements, and the State Board of Equalization has adopted Property Tax Rules 301-326 to provide further guidance and interpretation of the statutes. Additionally, many County Boards of Supervisors have adopted local rules for the appeals process.

Is there any risk to me for filing an assessment appeal?

After hearing all the evidence, an appeals board is required by law to determine the value of your property, which means that they can leave the value the same, decrease the value, or increase the value of your property. An appeals board is not bound by the value presented by you or the county assessor. The appeals board decision is final, and your only recourse would be to appeal their decision to your county's superior court.

Who makes up the appeals board?

A local appeals board, acting as the county board of equalization, is an independent agency separate from the county assessor's office. Depending upon the size of the county, there may be more than one appeals board for a county. A three-member panel will hear your appeal, although some appeals boards may be made up of five members and/or alternates to ensure adequate staffing and the timeliness of hearings. Local appeals board members can be made up of the elected county board of supervisors, acting as the county board of equalization or a separate assessment appeals board, with the members appointed by the board of supervisors.

What experience is required to be appointed as an appeals board member?

Persons appointed to be an appeals board member will typically have experience as an appraiser, real estate broker, certified public accountant, attorney, or others knowledgeable in the real estate market. Up to two members of a county board of supervisors may also serve as assessment appeals board members.

What are the functions of the appeals board or a hearing officer?

Their primary function is to conduct impartial hearings on property assessment disputes between taxpayers and the county assessor. Based on the evidence presented at these hearings, the appeals board determines the fair market value for the disputed property.

Among other things, they can:

- Lower or raise a property's assessed value
- Remove a penalty assessment imposed by the county assessor
- Reverse a change in ownership or new construction reassessment

The appeals board has no legal authority to:

- Reduce an assessment because of the increase in value or taxes from prior years
- Grant or deny exemptions
- Reduce your taxes due to your inability to pay your taxes
- Dictate the manner in which tax funds are spent

I have the option of requesting a hearing officer instead of going before an assessment appeals board. What is the difference between the two?

Some counties have a hearing officers program for cases consisting of less complex properties. Hearing officers can be appeals board members, alternates, or administrative law judges. You and the county assessor, or representatives, will present evidence of your property's value in front of a hearing officer but in a less formal manner than in front of an appeals board. However, testimony during both types of hearings is taken under oath or affirmation.

The primary differences between having your appeal heard by a hearing officer versus an appeals board are:

- The appeal board's decision is final whereas, depending upon the county, the decision may or may not be final with a hearing officer.
- The appeal of an assessment appeals board's decision can only be made in the county's superior court.

When is the hearing officer's decision not final?

The county board of supervisors has the authority to adopt rules and procedures that set forth whether or not a hearing officer's decision is a binding or non-binding recommendation. They may also adopt a resolution that the appeals board has the discretion to accept or reject the hearing officer's recommendation. This means that if either the county assessor or you do not want to accept the hearing officer's recommendation, you may request in writing, within a specific time frame, a new hearing before the county appeals board. You should check with your clerk of the board to verify what applies to your county.

I will have a tax consultant represent me at my hearing. Do I have to provide a specific name of a person to be the authorized agent? I don't know who it will be yet, or if that person will still be there by the time my hearing is scheduled.

Your authorized agent may be the name of a corporation or other legal entity. There is no requirement that a specific person's name be provided.

Since I will have an agent representing my corporation, can my agent also sign the agent authorization section of the *Application for Changed Assessment*?

No. The agent authorization block on the application must be signed by the applicant, or if the applicant is a legal entity, an officer or authorized employee of the legal entity may sign this section. The application would be invalid if your agent signed the authorization section.

I did not plan to have an agent represent me in my appeal when I filed the *Application for Changed Assessment*, thus I did not complete section 2, Authorization of Agent. I have now changed my mind. Should I submit an amended application?

No. You may submit a separate written statement designating an agent after you have filed your application. However, the information required on an agent authorization is very specific and will not be valid unless it is complete; thus you should contact your clerk of the board for the specific details. Additionally, some counties have a form specifically for naming an agent after the initial filing, the substitution of an agent, or the revocation of an agent.

My daughter will be filing the *Application for Changed Assessment* for me. Will I need to designate him as my agent?

No. Persons who are the applicant's spouse, registered domestic partner, parent, child, or co-owners may also file on behalf of the applicant and are not deemed to be agents. The filer need only indicate the relationship with the applicant in the certification section at the end of the application and be able to provide proof of relationship if requested.

Do I need to provide information with the *Application* to support my opinion of value?

No. Any information provided with the application must also be presented at the hearing in order for it to be considered evidence that the appeals board may hear. However, you should provide you county assessor with information that supports your opinion of the market value for your property. This may result in the county assessor concurring with your evidence, and there would be no need to pursue the appeal. For a residential property, the best supporting documentation is information on sales of comparable properties.

What is a comparable sale?

A property sold with features that are similar to your property is a comparable sale. Comparable sales information helps you analyze the value of your property. For example, a property that sold in the 'open market' is a *comparable sale* if it is similar to your property in:

- Location
- Zoning
- Size of lot and improvements
- Age
- Quality and condition

- Number of bedrooms and bathrooms (for single family residences)
- Other amenities such as view, pool, patio, etc.

Not all of these factors, however, must be the same as your property to be a comparable sale – 'similar' does not mean 'identical.' An 'open market' means the transaction must have been offered for sale under typical market conditions; thus, a sale to a relative or a sale under distress may or may not have been sold under open market conditions. If using such sales, further investigation is required to determine if any unusual or favorable conditions were involved. An appeals board may not consider comparable sales that have occurred more than 90 days after the date your value was set by the county assessor.

Where can I find comparable sales information?

Your assessor's website may offer sales information for properties that have sold within the last two years. The same information is available from many assessors' district offices. Many websites offer sales information free of charge. Additionally, a local real estate agent or title agent can also be a valuable source of information.

In gathering my comparable sales evidence, how far back can the date of sale occur?

Sales of comparable properties may be anytime prior to the date of your value, but those closest in time are the best indicators of value. However, an appeals board may not consider comparable sales that have occurred more than 90 days after the date your value was set by the county assessor.

Must all my supporting documents be in the form of comparable sales?

No. Both the county assessor's evidence and your evidence may include oral testimony by an assessor's staff member, you, your agent or attorney, or by an expert witness or other witness. Submission of a formal appraisal or any other written material (for example, a Realtor's opinion of value or an engineering study) is allowed; however, the person who prepared the report must be present at the hearing to respond to any questions the appeal board members or county assessor may have about the information. Depositions are not admissible and will not be considered by the appeals board.

Can I appeal the value of my property solely on economic evidence, using the income approach to value, or is it the rule that comparable sales must be used?

Any relevant evidence may be admitted if it is a customary method in which a property is appraised. You may use the income approach or the replacement cost approach if they are considered the most appropriate method of valuation for your property.

If I provide supporting documentation to my county assessor, will the assessor present that information to the appeals board?

The only evidence that an appeals board can consider is the evidence that you and the assessor present at your hearing. The board may not consider any information, documents, or

correspondence, either verbally or written, that you previously submitted to the assessor, or that the assessor previously presented to you, prior to filing for an appeal, or any information attached to your application unless you also present that evidence at your appeals hearing. The outcome of your hearing will be determined only by the evidence presented at the hearing.

At my appeals hearing, is it my responsibility to prove that the county assessor's value is not correct?

You should be prepared to present evidence to prove that the value you are requesting is correct. The burden of proof lies with the assessor's office to establish that their opinion of value is correct under the following situations:

- Appeals of an owner-occupied single-family dwelling
- Non-enrollment of purchase prices (provided a change in ownership statement was timely filed by you)
- Requests by the assessor to enroll a higher assessed value than what is currently on the roll
- Escape assessments, when it is not due to you failure to file a change of ownership or business property statement or permits for new construction
- Penalty assessments

In all other situations, the applicant has the burden of proving that the property has not been correctly assessed and must be the first to present the evidence at the hearing.

I filed an assessment appeal and I am awaiting a hearing date. The second installment of my property taxes is coming due soon. Do I have to pay it even though I am contesting the value?

Yes. You are required to pay your property taxes timely despite any appeal you have pending. Failure to do so will result in financial penalties and interest charges regardless of the outcome of your appeal. If you are granted a reduction, you will receive a refund and interest.

Must I have legal representation for me at my hearing?

No. You may represent yourself. However, you may have a tax consultant appear for you, but you must sign a written authorization prior to the hearing permitting that person to represent you.

What do I need to do to prepare for my hearing?

In preparation for your hearing, you will need to collect and organize the evidence you plan to present to the hearing officer or appeals board. The evidence must support your opinion of the 'fair market value' of the property covered by your application. At the hearing, you and the county assessor will be given an opportunity to present factual evidence to substantiate your

opinions of value. You and the county assessor may question each other regarding the evidence presented.

I just filed an *Application for Changed Assessment*? When should I expect a hearing date?

It will vary from county to county and on their workload. Most appeals are scheduled within four to eighteen months. However, the law allows up to two years for an *Application for Changed Assessment* to be resolved. Notice of the hearing date will be mailed to you at least 45 days prior to the date of your hearing.

What would happen if I forgot all about my hearing date and did not show up as scheduled? Can I request a new date?

Your application will be denied for nonappearance and your appeal will be considered closed if you or your representative missed your hearing date. No further action will be taken on your appeal and a notice of denial will be mailed to you. However, if you believe you had a good reason for not appearing at your hearing, you may request a reinstatement hearing before the appeals board. You must file a written request with the appeals board within 60 days from the date of mailing of the notification of the denial for nonappearance. Such requests are granted only if extraordinary circumstances caused you to miss the hearing.

What would happen if I did not get a hearing scheduled within two years of filing for my application?

If this unusual circumstance occurs, your opinion of value may temporarily become the taxable value of your property by default until the appeals board hears and decides your case. If, after the hearing, increased or escaped taxes are warranted, they will not apply during the time in which the board failed to act. There are some exceptions to this rule, so you should contact your for more details.

If the county assessor and I have agreed on an assessed value prior to my hearing date, do I need to show up for my hearing?

Yes, unless you, the county assessor, and county legal officer have signed a stipulation agreeing to the new value.

When will I know the outcome of my hearing?

The county appeals board will either advise you of their decision at the conclusion of the hearing, or you will be notified of their decision by mail at a later date. Depending upon the county and their workload and the complexity of your appeal, your notification may take up to several months.

I just had a hearing with the assessment appeals board, and the outcome is not what I had hoped for. If I provide additional information, can I appeal again?

No. The decision of the appeals board is final. A challenge of the board's decision must be filed in superior court of your county within six months of the decision on your application.

I am filing an appeal on my property. Is there a way I can find out what comparables or other information the county assessor will be using to support his/her value estimate for my property?

Yes. Regardless of the value of your property, you may request an 'exchange of information' with the county assessor. If the assessed value of your property is more than \$100,000, the county assessor may request an 'exchange of information' from you.

Request for an exchange of information must be made at least 30 days prior to the hearing and the requestor must include his/her opinion of value and the data that supports the value. The other party must then respond to the request at least 15 days prior to the hearing with their opinion of value and supporting data.

When an exchange of information occurs, the evidence at the hearing is largely restricted to what information has been exchanged. While the parties may not introduce evidence on matters not previously exchanged, each party may introduce new material relating to the information already received from the other party. If this occurs and the other party wishes to may be requested at that time.

Some counties have adopted local rules of notice and procedures related to exchanges of information. You should contact the clerk of the board for more information.

How and where do I request an exchange of information?

You may submit your request to the clerk of the board at the time of the filing of the application, or it may be submitted to the county assessor and the clerk of the board at any time 30 days before the scheduled hearing date. Some counties have a specific form to request an exchange of information, while others only require the request be written. Check with the clerk of the board for your county's procedures.

After I filed an *Application for Changed Assessment*, I have decided not to go through with it. What should I do? Will I be charged a fee for withdrawing?

Under most circumstances, you are permitted to withdraw your application at any time prior to the hearing. In some counties, if the county assessor has indicated that evidence supporting a higher value than what is currently shown on the roll will be introduced at the hearing, you may not withdraw your application.

If you decide to withdraw your assessment appeal, you should notify the clerk of the board in writing as soon as possible so more time is not spent on reviewing your application. Most

counties do not charge a withdrawal fee; however, please check with your county's clerk of the board for details.

I wrote a letter to the clerk of the board to request a withdrawal of my appeal, but the clerk indicated the request was denied by the board. Can they do that when I was the one who requested the appeal?

Yes. It is within the law for an appeals board to decide to continue an appeal, even though the county assessor and you may have agreed to withdraw the appeal.

Can I submit one application for more than one property?

No. You must file a separate application for each parcel.

Can I file for an assessment appeal for my mother who is incapacitated?

Yes, an appeal may be filed by an applicant who is the:

- Owner
- Owner's spouse, parents, or children
- Person directly responsible for the payment of the property taxes
- Authorized agent, such as a professional tax consultant.

After I filed an *Application for Changed Assessment*, I discovered additional data that would support a lower value for my property than what I originally indicated on the application. Can I submit a new application?

No. You may revise the opinion of value stated on your application at any time up to or during your appeals hearing without submitting a new application. Additionally, you may present testimony and other evidence at the hearing to support a value that is different from what was stated on the application.