

ASSESSING THE ASSESSOR

SUMMARY

In response to a citizen complaint, the 2007/2008 San Diego County Grand Jury undertook an investigation of the County of San Diego Assessor's Office. We began by noting that the Grand Jury had not performed a study of this Office in the last 25 years. Early in our investigation we reviewed a report dated February 28, 2006 from the California State Board of Equalization (BOE) entitled San Diego County Assessment Practices Survey. This report was a thorough performance audit of the programs and procedures relating to property tax assessment performed every four years by the Board of Equalization. Similar to a Grand Jury report, it contained findings and recommendations and noted that the Assessor has effective programs in real property assessment and that the County's average assessment ratio of 99.95 percent is exceptional. The findings were for relatively minor items, most of which have been corrected and which will be prevented from occurring when the new automated "Integrated Tax System" comes on line, now anticipated to be late in 2008.

In light of that survey, the Grand Jury decided not to duplicate the survey with a similar review. Instead, we decided to focus on two areas:

- The assessment appeals process, which is the subject of a complaint we received and is the subject of this report.
- Property tax reductions under the Mills Act for historical properties; this is the subject of a separate Grand Jury report.

PURPOSE

To study the practices and procedures of the three entities involved in the property tax assessment appeals process: the San Diego County Tax Assessor's Office, the Office of the Clerk of the Board of Supervisors and the Assessment Appeals Boards.

PROCEDURES

Members of the Grand Jury:

- Conducted interviews with senior officials and operational staff of the County Assessor's Office and toured the office.
- Conducted interviews with senior officials and operational staff of the Office of the Clerk of the Board of Supervisors.
- Conducted interviews with senior officials in the County Auditor/Controllers Office; reviewed annual property tax report published by that Office.
- Conducted interviews with senior officials in the County Treasurer/Tax Collector's Office.

- Attended three sessions of hearings conducted by the Assessment Appeals Boards.
- Conducted interviews with members of the Assessment Appeals Boards.
- Reviewed the performance audit of the Assessor's Office conducted by the California State Board of Equalization and published in February 2006.
- Examined the various stages, processes and paperwork associated with an assessment appeal from filing to resolution.

DISCUSSION 1 – Property Taxation Process

The County property taxation process involves three separate agencies working collaboratively. The Assessor's Office is responsible for assessing approximately one million parcels annually and, assigning an assessed valuation effective January 1 of each year. The new value each year is the same value as the previous year, indexed for inflation at no more than 2%, unless an assessable event has occurred. These events include a transfer of ownership and the construction of significant new improvements on the parcel. By July 1 of each year, the Assessor transmits the roll of assessed values to the County Auditor/Controller.

The Office of the Auditor/Controller applies tax rates, including special assessments, for the fiscal year beginning July 1 for approximately 5,000 tax rate areas in the County. In the Auditor's Fiscal Year 2007 property tax report, a tax rate area is defined as "a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year". The Auditor/Controller also prepares the property tax bills and maintains the tax assessment roll. Tax revenue is allocated by the Auditor/ Controller to almost 400 local taxing agencies including the County, the 18 incorporated cities, school districts, other special districts, and community redevelopment agencies.

The Office of the County Treasurer-Tax Collector is responsible for collecting property taxes and providing public information on the tax bill. The bills are due semi- annually, usually in December and April of each fiscal year. A 10% penalty is charged to late filers. The Tax Collector also mails refunds on overpayments and to tax payers who have their assessed valuation reduced as a result of an appeal, a temporary reduction in value, or a reduction due to calamity or misfortune. If property taxes are in default for five years, the Tax Collector may sell those properties at public auction at a minimum price of the taxes due plus costs of the sale. This year's auction was held in February 2008 and involved slightly less than 200 properties.

DISCUSSION 2- Assessment Appeals

In accordance with the Revenue and Taxation Code, Section 1603 (b)(3), a property owner may file an appeal if he or she disagrees with the assessed value placed on the parcel by the Assessor. The appeal on a regular assessment must be filed between July 2 and November 30. The new assessed value, if any, becomes effective January 1 of the year filed. In order that the agency administering the appeals system is administratively

separate from the agency against which appeals are filed (the Assessor), the Office of the Clerk of the Board of Supervisors is charged with administering the property assessment appeals system.

The Clerk of the Board of Supervisors distributes and receives the appeals applications, publishes a schedule of appeals hearing dates, notifies applicants of their hearing date at least 45 days in advance, publishes agendas and provides clerical support for hearings, and maintains records of the hearing proceedings. Appeals applications are transmitted via scanner to the Assessor's Office where the Assessor's staff will endeavor to reach an agreement with the applicant on the value of the property. The written agreement, called a stipulation, signed by both the applicant and an Assessor's staff member, is submitted to the Assessment Appeals Board for approval.

In the 2006/2007 fiscal year, there were 3,334 appeals, 2,622 of which had been resolved by the end of the fiscal year. Of those appeals, only 200 went to appeals hearings and 2,422 resulted in either stipulations (1,899) or withdrawals (523). Thus, over 92% of the cases were resolved without having to go to an appeals hearing. Many of the appeals that go to hearing, and may take more than one year to resolve, involve complex disputed assessments of large commercial parcels, such as shopping malls and golf courses.

Appeals on which agreements cannot be reached are transmitted electronically in a queue from the Assessor back to the Clerk of the Board of Supervisors for scheduling of a hearing. There are separate queues to distinguish hearings on commercial property assessments, which typically take more time, from those on private residences. This separate scheduling is done for the convenience of homeowners so that their waiting time is minimized.

Assessment appeals hearings are conducted by the Assessment Appeals Boards, as authorized by Section 1620 of the State Revenue and Taxation Code. San Diego County currently has four Assessment Appeals Boards with the capacity to expand to five based on the volume of hearings and approval by the Board of Supervisors. Each Board includes five members, three of whom serve on a panel and two of whom are alternates. Members are appointed by the Board of Supervisors for a three- year term. Qualifications for Assessment Appeals Board members, per Section 1624.05 of the Revenue and Taxation Code, include five years of professional experience as a public accountant, attorney, licensed real estate broker, or accredited property appraiser. Board members must also complete training either conducted by or approved by the State Board of Equalization. Compensation for Appeals Board members is \$50 for a half-day session and \$100 for a full-day session plus mileage reimbursement.

The Clerk of the Board of Supervisors has published a 26 page rules of procedure document for assessment hearing officers. It states that the Appeals Boards act in a quasi-judicial capacity and render decisions only on the basis of proper evidence presented at the hearing. The applicant must provide documentation to support his or her estimate of the value of the property, such as recent sales prices of comparable properties or reasonable estimates of the revenue derived from income producing parcels. The

evidence is subject to rebuttal by the Assessor's representative at the hearing. The Appeals Boards have discretion to grant continuances to allow for presentation of additional evidence. From the hearings we observed, the Appeals Boards are very willing to allow individual homeowners the reasonable time they need to acquire documentation to support their claim. Once a decision is rendered, however, the applicant's only recourse is to file an action in Superior Court.

Section 1604(c) of the Revenue and Taxation Code provides that a determination on an application for a reduction in assessment must be made within two years of the timely filing of the appeal. Otherwise the applicant's estimate of the market value of the property shall be accepted as the value upon which taxes are to be levied for the tax year(s) covered by the application. The applicant and the Assessment Appeals Board can mutually agree to waive or extend the two- year period.

The vast majority of appeals on assessments of owner occupied single-family homes are resolved well within the two- year period. The appeals that do take that long are typically those on income producing commercial property where both the evidence and the assessment methodology are more complex and open to different interpretations. Waivers of the two-year requirement are seen as mutually advantageous and are signed as a matter of routine.

We investigated a citizen complaint about an appeal of a tax assessment that alleged that the process was unfair to the complainant. The complaint alleged that because of delays in the system and the rescheduling of hearing dates, a final hearing date was not scheduled until a few weeks before the two- year limit. At that time, the complaint alleges that the complainant was coerced into waiving the two-year limit so the hearing could be continued before the Appeals Board that had heard the appeal previously and thus was familiar with the situation. The complaint raised two significant issues:

- 1) Should an appeal of an assessment on an owner-occupied home take over two years?
- 2) Should the Appeals Board threaten the applicant with denial of the appeal if a waiver of the two- year limit was not signed, in apparent violation of the applicant's rights under Section 1604 of the Revenue and Taxation Code?

We were interested in determining whether or not the issues raised by the complainant were systemic throughout the Assessment Appeals system prompting the need for significant procedural reforms or whether the issues were isolated and particular only to the complainant's case. With the approval of the complainant, we were able to discuss specifics of the case with representatives of the Assessor's Office, the Office of the Clerk of the Board of Supervisors, and the Assessment Appeals Boards. However, our main focus was on the correct system-wide application of the County Rules of Procedure for Assessment Appeals Boards and of the State Revenue and Taxation Code.

Without commenting on the merits of our complainant's appeal, we noted that the information provided to the Grand Jury consistently documented that there were extenuating circumstances that contributed to the issues cited above. Primary among those was the willingness of the Assessment Appeals Board to postpone a denial so that the applicant could compile and present additional evidence. The Appeal Boards make every effort to give appellants guidance on what they should do and to allow appellants enough time to prepare for their hearings. All of our evidence attests to this as a general fact. This effort was also evident in the complaint we were investigating.

The Grand Jury has determined that our complainant's situation is an isolated one and that no recommendations for the improvement of the system for handling property assessment appeals are warranted at this time. The fact that some cases move slowly through the system is a result of the willingness of the Assessment Appeals Boards to allow both the applicants and the Assessor's Office the necessary time to assemble all necessary evidence. We agree with the statement in the Board of Equalization practices survey: "The assessor's assessment appeals program is effective and well administered."

FACTS/FINDINGS

Fact: The Assessor's Office and the Office of the Clerk of the Board of Supervisors provided the Grand Jury with ample documentation pertaining to the complaint we were investigating.

Finding: The Grand Jury review of the evidence indicates that delays in hearing this appeal resulted from the Assessment Appeals Board's willingness to provide the applicant additional time to assemble the documentation necessary to support the claim.

DISCUSSION 3- Workload Increase in 2007/ 2008

The 2007/2008 fiscal year saw two events that substantially added to the work of the Assessor's Office: the October 2007 wildfires and the ongoing slump in real estate values since 2006. The Assessor's Office has taken a proactive approach in addressing both of these situations.

Section 170 of the State Revenue and Taxation Code provides for a reassessment of parcels where more than \$10,000 in damages results from misfortune or calamity. This includes declared disaster areas, such as those areas ravaged by the 2007 wildfires. An application for reassessment must be filed within one year of the calamity. Assessment staff members were present at the four Local Assistance Centers set up by the County and City of San Diego to aid fire victims. The Assessor received 1,746 applications for calamity related assessment reduction. By March 1, 2008, decisions had been reached on 1,337 applications, of which 1,187 were approved. The property tax on these parcels would be based on the reduced assessment pro-rated from the date of the fire for the balance of the fiscal year. The Assessor's pro-active approach is exemplified by a letter mailed on November 19, 2007 to owners of properties destroyed or damaged in the

wildfires who had not yet applied for the calamity reassessment. The letter included a one -page application for reduction and a brochure explaining the process.

Based in great part on a slump in the real estate market, the number of appeals on assessments for the fiscal year 2007/2008 (assessed value as of January 1, 2007) increased from 3,334 to 11,456. The Assessor believes that, based on previous experience, the vast majority of these appeals can be resolved by stipulation and that an increase in the number of hearing dates or the formation of a fifth Appeals Board will not be necessary. The increase in staff time necessary to process the appeals would be offset by the decrease in staff time required to process the declining number of assessments based on construction permits.

Under Proposition 8, the Assessor can make a temporary reduction in assessed value when the current market value of a property falls below the assessed value. Assessment staff has on its own initiative made this temporary reduction in areas of the County where reduced market values are known. Other property owners must file a one- page application for review of assessment between January 1 and May 30, 2008. The reduction would reflect the market value as of January 1, 2008 for the 2008/2009 fiscal year tax bill. The reduction in assessments based on new construction is expected to free up staff time to process these applications for temporary reductions.

COMMENDATIONS

The 2007/2008 San Diego County Grand Jury commends the Assessor's Office of the County of San Diego for its highly motivated staff and very well run organization, especially with respect to assessment appeals. We also wish to thank them for the amount of time and evidence they gave us during our investigation.

We also commend the Office of the Clerk of the Board of Supervisors for its efficient management of the appeals hearing process.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
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None Required