

**ASSESSMENT APPEALS BOARD MINUTES  
COUNTY OF SAN LUIS OBISPO  
STATE OF CALIFORNIA**

Friday, September 24, 1999

The Assessment Appeal Board of the County of San Luis Obispo, State of California, met in regular session at 9:00 o'clock A.M., in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, California.

PRESENT: Appeals Board Members Mr. Tom Baron, Mr. Harry Yasumoto and  
Chairperson Kem Weber

ABSENT: Appeals Board Member None

Mr. Ed Olpin, Deputy County Counsel, is present and represents the Assessment Appeals Board.

Mr. Dick Frank, County Assessor, Mr. Bruce Douglas, Ms. Barbara Edgington, Ms. MaryAnn Hess, and Ms. Linda Trahey, Deputy Assessors are present and sworn.

This is the time set for members of the public wishing to address the Board on items not set on the Agenda.

**Mr. Joe Kelly:** presents a pamphlet "Wine Barrels and Property Taxes, Do They Go Together?", discusses the State Board of Equalization's ruling on wine barrels. **No action taken.**

**Application Nos. 1998-97, 1999-4, 1999-8 and 1999-23, Harker Wade, APN Nos. 005-171-014, 005-171-017, 005-171-018, and 052-002,** are presented. Mr. Wade Harker, owner, and Mr. Maurice Twitchell, Attorney, are present and sworn. Mr. Frank presents **Assessor's Exhibit A - Stipulation**, with the Clerk reading the stipulated values into the record. Mr. Twitchell presents **Applicant's Exhibit 1 - Appellant's Brief**. Ms. Edgington describes the property and outlines the history of the title on the property. Mr. Twitchell presents his case, discusses the trust and states no change in ownership occurred. Ms. Edgington presents the Assessor's case (**Assessor's Exhibit B - Revenue and Taxation 64(c)(1) and 64(d), Assessor's Exhibit C - Revenue and Taxation Code Example #1, #2, & #3, Assessor's Exhibit D - History of Property Examples #4, #5 & #6, Assessor's Exhibit E - Property Tax Rules**). Discussion regarding ownership benefits and control occurs. Ms. Edgington continues presenting the Assessor's case, states upon the death of Ms. Wade the trust became irrevocable, and the State Board of Equalization agrees this event is a change in ownership; and discusses the State Board of Equalization's opinion on a General Partners interest (**Assessor's Exhibit F - Revenue and Taxation Code 462.160(2) and State Board of Equalization Faxed Response, Assessor's Exhibit H - State Board of Equalization letter dated June 19, 1998**). Mr. Twitchell discusses the trust and Ms. Wade's ability to modify it. A discussion regarding revocable and irrevocable trusts occurs. Ms. Edgington presents **Assessor's Exhibit I - State Board of Equalization Letter dated December 11, 1991**. Chairperson Weber directs the Applicant and the Assessor to prepare their letters to the State Board of Equalization for clarification of "control" versus "ownership" which are to be given to Mr. Olpin within 60 days; Mr. Olpin is to forward a copy of each letter to the Assessment Appeals Board members for review and comments within 30 days; then the letters will then be sent to the State Board of Equalization for their opinion. **Thereafter, on motion of Mr. Baron, seconded by Mr. Yasumoto, and unanimously carried, Application Nos. 1998-97, 1999-4, 1999-8 and 1999-23, Wade, are continued to a date to be set by the Clerk.**

The Clerk presents for approval the **minutes from the August 27, 1999 hearing**. **Thereafter, on motion of Mr. Baron, seconded by Mr. Yasumoto, and unanimously carried, and the minutes from the August 27, 1999 hearing are approved as presented and the Chairperson is instructed to sign the same.**

Ms. Julie L. Rodewald, County Clerk-Recorder and Ms. Vicki M. Shelby, Chief Deputy Clerk of the Board, present for **discussion the Rules and Procedures** as directed by the Board of Supervisors. Ms. Shelby addresses the concerns by the Board of Supervisors and Mr. Joe Kelly: 1) having the same Board members present when an appeal has been continued and 2) expert testimony: not requiring an appraiser or realtor to be present for cross examination. **The matter is fully discussed and thereafter, on motion of Mr. Yasumoto, seconded by Mr. Baron, and unanimously carried, the Assessment Appeals Board directs the Clerk to set up a procedure for tracking continued hearings, making every effort to have the same Assessment Appeal Board members present at the continued hearing as were present at the first hearing and if this is not possible, the applicant is to be notified as soon as possible that there will be a change in the members hearing the appeal.** The Board discusses the options that are available to the applicant: (a) the applicant has the choice of having two members who were present at the first hearing hear the appeal, (b) continue the appeal to another date when all three original members can be present or (c) provide a copy of the tape from the first hearing to the Appeals Board member who was absent, so the member can review what was discussed at the hearing. Mr. Olpin addresses the issue of Expert testimony, indicates if the Assessor presented an appraisal without the author being present, the Assessment Appeals Board would not and should not accept that appraisal and the same should be true for the applicant; states that is consistent with the law, and the State Board of Equalization's Rules and pamphlet entitled "Residential Property Assessment Appeals", it is the practice throughout the State of California and is not unique to this County; discusses Rule 313(g), the last paragraph states "The board may act only upon the basis of evidence properly admitted into the record. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for presentation of evidence, for cross-examination of all witnesses, for argument, and for rebuttal."; when an appraisal report is submitted as evidence, the appraiser becomes the witness and precluding the board, applicant or assessor from cross-examining that witness would violate that Rule as well as constitutional due process rights. Mr. Kelly addresses his concerns regarding witnesses being required to be present. **The matter is fully discussed and thereafter, on motion of Mr. Yasumoto, seconded by Mr. Baron, and unanimously carried, the Board states these types of changes are not within their jurisdiction and will need to be addressed at the State level through either legislation or State Board of Equalization rule changes.** The Board and staff provide Mr. Kelly with several resources to take his concerns to in order to seek some type of language change at the State level; further, the Board addressed their ability to accept evidence without the professional being present indicating they will always take the position of what is in the best interest of the applicant and the applicant's purpose and benefit is best served if they do have their expert witness present so the Board can question them.

**The Clerk presents for approval the indexed values for Application No. 1998-94, Timothy Banducci, APN #062-042-043. Mr. Timothy Banducci is not present. Thereafter, on motion of Mr. Yasumoto, seconded by Mr. Baron and unanimously carried, the indexed values are read into the record as follows: for 1995-96 Roll Revision, the full indexed value of the land is fixed at \$49,334, the full indexed value of the improvements is fixed at \$231,406, for a total indexed value of \$280,740; for 1996-97 Roll Revision, the full indexed value of the land is fixed at \$49,881, the full indexed value of the improvements is fixed at \$233, 975, for a total indexed value of \$284,856; for 1997-98 Roll Revision, the full indexed value of the land is fixed at \$50,878, the full indexed value of the improvements is fixed at \$238,652, for a total indexed value of \$289,530; and for 1998-99 Roll Revision, the full indexed value of the land is fixed at \$51,895, the full indexed value of the improvements is fixed at \$243,427, for a total indexed value of \$295,322.**

This is the time set for Board members, Assessor and/or Staff to bring up items to be discussed at the next meeting. **No action taken.**

On motion duly made and unanimously carried, the Assessment Appeals Board of the County of San Luis Obispo, State of California, does now adjourn.

---

Chairperson

ATTEST:

JULIE L. RODEWALD, County Clerk-Recorder  
and Ex-Officio Clerk of the Assessment Appeals Board

By: Deputy Clerk-Recorder

cmc