

Monterey County Assessment Appeals Board
Rules of Procedure

Adopted by the Monterey County Board of Supervisors, May 24, 2011

These rules can be accessed at the Clerk of the Board of Supervisors' webpage at <http://www.co.monterey.ca.us/cob/aabforms.htm>. Copies of the Monterey County Assessment Appeals Board Rules of Procedure are available for review or purchase during regular business hours at the office of the Clerk of the Board of Supervisors, 168 West Alisal Street, First Floor, Salinas, CA 93901. The Clerk of the Board can also be reached by calling 831-755-5066 during regular business hours or by emailing cob@co.monterey.ca.us.

Rule 1: Purpose and Authority

These Rules of Procedure of the Monterey County Assessment Appeals Board (hereafter “Rules”) are adopted pursuant to Article XIII, section 16 of the California Constitution to facilitate the work of the Monterey County Assessment Appeals Board and to insure uniformity in the processing of and decision on applications for changed assessment. These Rules describe procedures and requirements of the Monterey County Assessment Appeals Board. These Rules do not reflect all legal requirements that govern assessment appeals. These Rules supplement and are to be used in conjunction with the laws and regulations governing assessment appeals, including the California Constitution, the California Revenue and Taxation Code, the Property Tax Rules (Title 18 of the California Code of Regulations), and Chapter 2.40 of the Monterey County Code. In the event of any conflict between these Rules and any federal or California constitutional or statutory provision or County ordinance, the constitutional or statutory provision or County ordinance will supersede and invalidate any conflicting Rule provision.

Rule 2: Authorization and Direction to Clerk

Pursuant to section 2.40.080 of the Monterey County Code, the Clerk of the Board of Supervisors serves as the Clerk of the Assessment Appeals Board (hereafter “Clerk”) and performs all duties in connection with the proceedings of the Assessment Appeals Board as are required by law. The Clerk is also authorized and directed to take all such actions and perform such duties as necessary to comply with and carry into effect each and every provision of these Rules as well as other provisions of law which relate to assessment appeals.

Rule 3: Filing of Application

In addition to such other application requirements as are set forth in state law and regulation, the Application for Changed Assessment (“application”) must:

- Be complete and submitted on the current year’s approved form, available on the Clerk’s website (<http://www.co.monterey.ca.us/cob/aabforms.htm>). Hard copies of the form are available during regular business hours at the office of the Clerk of the Board of Supervisors, 168 West Alisal Street, First Floor, Salinas CA 93901. One application is required per Assessor’s Parcel Number (APN). A separate application is required for each APN;
- Be filed by the property owner or by the owner’s spouse, registered domestic partner, parent, child, or any person having a direct economic interest in the payment of property taxes on that property (the “applicant”). An agent authorized by the applicant may file the application provided that the agent has valid authorization.
- Except when the agent is an attorney licensed to practice in law in California whom the applicant has authorized to file the application, any application filed by an agent must include a written valid agent authorization. A valid agent authorization consists of either: 1) the agent authorization section of the Application for Changed Assessment, fully completed and signed by the applicant; or 2) the Monterey County Agent Authorization form (or a form with equivalent information) completed and signed by the applicant. Signature by the applicant – the person or entity on whose behalf the application is filed -- is required on the

written agent authorization filed with the Assessment Appeals Board. If the applicant is a corporation, the authorization must be signed by an officer or individual authorized by the corporation to sign, and said corporate authorization shall be provided to the Clerk upon request of the Clerk or the Assessment Appeals Board;

- Be received by the Clerk via mail or personal delivery within the prescribed filing period. Applications will be considered timely filed if hand delivered to the Clerk by no later than 5:00 PM Pacific Standard Time (PST) on the last day of the applicable filing period. If mailed, applications will be considered timely filed if postmarked by the last day of the applicable filing period. If an application bears both a private business postage meter postmark and a United States Postal Service postmark, it will be deemed to have been filed on the date shown on the United States Postal Service postmark. If the last day of the filing period falls on a Saturday, Sunday, or County holiday on which County offices are closed, then an application that is postmarked on the next business day is considered timely filed. Facsimile filings will not be accepted;
- Include original signature(s) (copies and/or facsimile filings cannot be accepted); and
- Include the required non-refundable processing fee of \$40.00 per each Application for Changed Assessment (each parcel requires a separate application and separate fee), unless the Clerk has approved a fee waiver under the procedures set out in these rules. For mailed applications, payment can be made by check or money order payable to County of Monterey. Cash, check or money order will be accepted for hand-delivered applications received at the Clerk of the Board's office during regular business hours at 168 West Alisal Street, First Floor, Salinas, CA 93901.

Rule 4: Processing Fee for Applications for Changed Assessment: Fee Payment, Request for Fee Waiver, and Determination of Invalidity For Failure to Pay the Fee

Effective July 1, 2011, the Board of Supervisors of the County of Monterey approved a non-refundable processing fee to be submitted with each Application for Changed Assessment filed with the Clerk. The amount of the processing fee as set by the Board of Supervisors is \$40, effective July 1, 2011. The fee must be paid at the time of filing of the Application for Changed Assessment. A separate application must be made for each assessor's parcel, and a separate fee must be paid for each application. For mailed applications, payment can be made by check or money order payable to County of Monterey. Cash, check or money order will be accepted for hand-delivered applications received at the Clerk of the Board's office during regular business hours at 168 West Alisal Street, First Floor, Salinas, CA 93901. If a check is returned due to insufficient funds, a returned check fee in the amount of \$18.00 will be charged. The fee covers a portion of the administrative cost of processing the Application for Changed Assessment. Therefore, the processing fee is not refundable, regardless of the outcome of the assessment appeal.

The processing fee may be waived for applicants who would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632 because of their financial condition (individuals who receive public benefits, are low income, or do not have enough income to pay for basic household needs). To request a waiver of the processing fee, the applicant must sign under penalty of perjury the Monterey County Assessment Appeals Board form entitled "Request to Waive

Processing Fee for Application for Changed Assessment” (hereafter “Fee Waiver Request Form”). The applicant must file the Fee Waiver Request Form concurrently with the Application for Changed Assessment. The Fee Waiver Request Form is available on the Clerk’s website (<http://www.co.monterey.ca.us/cob/aabforms.htm>). Hard copies of the form are available during regular business hours at the office of the Clerk of the Board of Supervisors, 168 West Alisal Street, First Floor, Salinas CA 93901.

The Clerk may waive the fee if the Clerk determines, based on the Fee Waiver Request Form and such other information as is provided, that the applicant qualifies for the fee waiver.

Applications will not be deemed valid without the processing fee or an approved Fee Waiver Request Form on file with the Clerk. If an application is submitted without the processing fee or Fee Waiver Request Form, or if the Clerk denies the fee waiver request or determines the form is incomplete, the Application for Changed Assessment shall be considered invalid. In the event of such determination of invalidity, the Clerk will promptly send a notification letter to the applicant (or agent if applicable):

- Advising the applicant of the required processing fee to deem the application valid ;
- Informing the applicant of the process to request a fee waiver or any information missing on the Fee Waiver Request Form submitted (if applicable); and
- Providing 30 days by which the processing fee or complete Fee Waiver Request Form (if applicable) must be received for the application to be deemed valid.

If the processing fee or Fee Waiver Request Form is subsequently received by the Clerk within the time specified by the Clerk, the Clerk may determine the application is valid. The Clerk may then proceed, when ready, to set the application for hearing and notify the applicant in accordance with section 1605.6 of the California Revenue and Taxation Code.

If the processing fee or Fee Waiver Request Form is NOT received by the Clerk, or does not show by postmark date or other objective indication that it was filed or mailed within the 30 days as prescribed in the notification letter, the Clerk will schedule the application for a hearing before the Assessment Appeals Board on the validity of the application (hereafter “Validity Hearing”). The Clerk shall notify the applicant of the time, date, and place of the Validity Hearing. If at the Validity Hearing, the Assessment Appeals Board deems the application valid, the Clerk may proceed, when ready, to set the application for hearing and notify the applicant of the hearing in accordance with section 1605.6 of the California Revenue and Taxation Code.

The first date the application was received by the Clerk shall be considered the application filing date. If a timely Application is filed without the fee and the fee is subsequently received or a fee waiver is subsequently approved, the date of filing of the Application shall be the first date the application was received, not the subsequent date that the fee was received or fee waiver approved. Likewise, the first date that a timely application was received, regardless of the fee status, shall also be the date that starts the two-year period pursuant to Revenue and Taxation Code section 1604.

Rule 5: Determination of Timely Filing

The Clerk may determine whether applications are timely filed, and the Clerk may deny an application for untimeliness, subject to a right of appeal to the Assessment Appeals Board as provided herein. An untimely application is an original application which does not show by postmark date or other objective indication that it was filed or mailed within the prescribed filing period.

Should an applicant provide an affidavit asserting a timely filing, in accordance with Section 166 of the California Revenue and Taxation Code, the Clerk may review the affidavit and evidence provided in support of the assertion and make a determination as to whether the application was timely filed.

In the case of an untimely filing, the Clerk will send a notification letter to the applicant (or agent if applicable):

- Indicating the application was denied as untimely filed; and
- Providing a period of 60 days from the date of the mailing of the letter during which the applicant (or agent if applicable) may appeal the denial to the Assessment Appeals Board. Appeals must be filed in writing.

If an appeal is received in writing by the Clerk within the prescribed timeframe provided in the notification letter, the Clerk will schedule the appeal for hearing before the Assessment Appeals Board on the timeliness of the application (hereafter “Timeliness Hearing”). The Clerk shall notify the applicant of the time, date, and place of the Timeliness Hearing. If at the Timeliness Hearing, the Assessment Appeals Board deems the application timely filed, the Clerk may proceed, when ready, to set the application for hearing and notify the applicant of the time, date, and place of the hearing in accordance with section 1605.6 of the California Revenue and Taxation Code.

Rule 6: Determination of Validity

Applications that do not include all required information in accordance with Property Tax Rule 305 of Title 18 of the California Code of Regulations are invalid and will not be accepted by the Assessment Appeals Board. In the case of an invalid filing due to omission of required information, the Clerk will promptly send a notification letter to the applicant (or agent if applicable):

- Advising the original application is incomplete and therefore invalid;
- Outlining the information required to complete the original application; and
- Providing 30 days by which the missing information must be received for the application to be accepted as valid.

If the missing information is subsequently received by the Clerk within the time specified by the Clerk, the Clerk may determine the Application is valid, and, when ready, the Clerk shall set the application for hearing and notify the applicant in accordance with section 1605.6 of the California Revenue and Taxation Code.

If an amended application is NOT received by the Clerk, or the amended application does not show by postmark date or other objective indication that it was filed or mailed within the 30 days as prescribed in the notification letter, the Clerk will schedule the appeal for hearing before the Assessment Appeals Board on the issue of validity (hereafter "Validity Hearing"). The Clerk shall notify the applicant of the time, date, and place of the Validity Hearing. If at the Validity Hearing, the Assessment Appeals Board deems the application valid, the Clerk shall, when ready, set the application for hearing and notify the applicant of the hearing in accordance with section 1605.6 of the California Revenue and Taxation Code.

In the case of an application deemed invalid due to failure to pay the processing fee, see Rule 4 above.

Rule 7: Postponement of Hearing

The Clerk is authorized to grant one (1) postponement of a hearing date if all of the following requirements are met:

- A written request is received by the Clerk no later than 21 days prior to the scheduled date of the hearing;
- The postponement is the first postponement requested by that party on the application; and
- The written request for postponement is made and received prior to 120 days from the expiration of the two-year limitation period provided in section 1604 of the California Revenue and Taxation Code.

If the request for postponement is made within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code, the Clerk is authorized to grant a postponement only if the following requirements are met:

- A written request is received by the Clerk no later than 21 days prior to the scheduled date of the hearing;
- The postponement is the first postponement requested by that party on the application; and
- An Agreement for Extension and Waiver of Rights Form, available on the Clerk's website (<http://www.in.co.monterey.ca.us/cob/aabforms.htm>), signed by the applicant or duly authorized agent, is filed with the written request for postponement or is already on file with the Clerk, and said Agreement for Extension and Waiver of Rights extends and tolls indefinitely the two-year period, subject to termination of the agreement by at least 120 days written notice by the applicant.

Upon granting of the postponement, the Clerk will set a new hearing date. The Clerk may at her or his option consult with the requesting party as to a new hearing date, but unless an Agreement for Extension and Waiver of Rights meeting the requirements specified above is on file, the Clerk shall set a hearing date that occurs prior to 120 days from the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code. Upon granting of the postponement, the Clerk shall send a letter to the applicant (or agent, if applicable) notifying the requesting party of the grant of the postponement and notifying the party of the new date set for the hearing on the application.

The Assessment Appeals Board is the appropriate body to consider all requests for postponement of a hearing date other than the first request of each party for a postponement. Such requests for postponement must be in writing or made on the record on the hearing date, and good cause must be shown.

Rule 8: Procedure for Reconsideration of Denial of Application for Lack of Appearance

If the Assessment Appeals Board denies an application for lack of appearance, the Assessment Appeals Board may reconsider the denial if the applicant files a written request for reconsideration of the denial and such request meets all of the following requirements:

- The applicant furnishes evidence of good cause for the failure to appear to make a timely request for postponement; and
- The applicant files a written request for reconsideration within 60 days from the date of mailing of the notification of denial due to lack of appearance. Filing date shall be based on the date of the postmark or date of delivery in the Clerk's office, whichever is sooner.

The Clerk shall schedule a hearing for the Assessment Appeals Board on the issue only of the reconsideration of the denial, and the Clerk shall notify the applicant of the time, date, and place of the hearing on the reconsideration. If the Assessment Appeals Board grants the request for reconsideration, then the Clerk shall proceed, when ready, to set the application for hearing and notify the applicant of the time, date, and place of the hearing in accordance with section 1605.6 of the California Revenue and Taxation Code.

Rule 9: Fee for Written Findings of Fact

If a party requests written findings of fact, that party shall be responsible to pay to the County such reasonable fee as the Board of Supervisors has established from time to time for the preparation of written findings of fact to cover the expense of preparing the findings. The fee shall be based on the time spent by County Counsel to prepare the findings, based on the actual time spent multiplied by the fully burdened hourly labor rate approved by the Board when establishing the fee. Prior to the close of the hearing on the party's application, the party requesting findings shall make a reasonable deposit for the completion of the written findings. The deposit shall be a minimum of four hours of County Counsel time or such other reasonable amount as the Board of Supervisors has established. Following completion of the findings, the Clerk shall apply the deposit as a credit toward the fee and shall bill the party for the remainder of the fee owing, and the party shall be responsible to pay the amount owed within 30 days of receipt of the findings and the bill. If fewer than four hours were required to prepare the findings, the Clerk shall determine the amount owing to the party and shall cause the appropriate refund to be processed and returned to the party.