

A REVIEW OF THE ASSESSMENT APPEALS PROCESS “FROM WORST TO FIRST”

1. Summary

Huge increases in real estate prices, facilitated by low interest rates and increasingly flexible and innovative lending standards have created concern that a possible real estate “bubble” is ready to burst. One consequence of a burst bubble is a decrease in property values, leading to a significant increase of assessment appeals.

Orange County was not prepared in the mid-1990s to handle the increase of property tax appeal filings. The 1994-1995 Orange County Grand Jury report, “Orange County Assessment Appeals Backlog Study,” examined the process. Severe problems existed, including an ineffective system, a staffing shortage, and a massive increase in appeals. Because some assessment appeals were not resolved within the statutory two year limit, the county defaulted on these appeals in favor of the homeowner.

A consultant was hired to assist in the analysis of the problems and to identify the necessary corrective actions. When the consultant’s suggested changes were implemented, the assessment appeals process became an efficient, responsive operation and past problems and weaknesses were satisfactorily addressed. In fact, the dramatic improvement was noted by the State Board of Equalization:

- Orange County’s appeals process was named the worst in the state in 1996
- In 2006, the county was named the “Best Run Assessment Appeals Operation in the State”

The 2005-2006 Orange County Grand Jury focused on the ability of the county to react to a greatly increased volume of property tax appeals. The conclusions were:

- 1.1** The county appears to be well-positioned to manage a substantial expansion in applications for property assessment adjustment. This status has been achieved largely through the adoption of needed reforms over the past decade.
- 1.2** The departments involved in the appeals process actively seek to improve and increase the scope of existing systems and procedures, employee knowledge and skills, and service to the public.

Acronyms in this Report

AAB	Assessment Appeals Board
AHO	Assessment Hearing Officers
BOS	Orange County Board of Supervisors
COB	Clerk of the Board
MOU	Memorandum of Understanding
OOA	Office of the Assessor

- 1.3** If a substantial decrease from present real estate prices occurs, there would be an accompanying increase in assessment appeals. Using the mid-1990s situation as a benchmark, it is estimated that the number of appeals currently being filed might represent only 20-25% of what could result from a bursting real estate “bubble”.

2. Introduction and Purpose of the Study

The purpose of this study is to determine if Orange County would be prepared to handle a large increase in property tax appeals if real estate prices decrease substantially. When this occurred in the mid-1990s, the county was unable to cope with the situation.

3. Method of Study

In conducting this study, the Grand Jury:

- Interviewed:
 - Office of the Assessor (OOA) employees
 - Clerk of the Board (COB) employees
- Reviewed:
 - 1994-1995 Grand Jury report “Orange County Assessment Appeals Backlog Study”
 - OOA procedures
 - COB procedures
 - Rules of Procedure-Assessment Appeals Board (AAB) and Assessment Hearing Officers (AHO)
 - OOA and COB assessment appeal statistics
 - Memorandum of Understanding (MOU) between the COB and the OOA
- Observed an Assessment Appeals Hearing

4. Background

4.1 Previous Grand Jury Study

The 1994-1995 Grand Jury conducted a study regarding the appeals backlog. The purpose was to determine why a number of assessment appeals had exceeded a two-year hearing/resolution limitation in September 1994, resulting in default judgments for the applicants. The recommended corrective actions were:

- “Expand the number of personnel who process appeals, including the addition of an Assessment Appeals Supervisor, to be responsible for directing the entire assessment appeals operation
- “Expand the capacity of the existing Assessment Appeals Boards

- “Continue implementation of the new Assessment Appeals Tracking system, and working with the Assessor, expand the system’s features to include more capacity enhancements, such as the grouping of like parcel appeals
- “Reassume the intake function of the assessment appeals process to satisfy California statutory requirements.”

4.2 Office of the Assessor (OOA)

The OOA establishes a value for all real and personal property to be placed on the assessment rolls, locates and identifies property owners, determines a value for property, lists it on the assessment rolls, and adjusts for any exemption. Real property is reassessed periodically under Proposition 13 and personal property annually. New construction, change in ownership, escape assessments (levied on property which has been overlooked and not included on tax rolls), and changes in valuation due to appeals are assessed as they arise.

According to the OOA,

“a module in the Assessor’s Comparable Sales Valuation application automates the preparation of hearing packets for single family residential properties. A new search screen in the Assessment Tax System allows enhanced search capability, including application filing date, assessment year, property type, and hearing action codes.”

On September 27, 2005, the COB and the OOA signed an updated MOU on assessment appeals, coordinating the handling, processing, and scheduling between the two independent departments. The MOU was vital because appeals, not otherwise waived, have a two-year statute of limitation from the date the appeal was filed. The controls provided by the MOU are necessary to meet the requirements of the law and the workload.

4.3 Clerk of the Board (COB)

The COB administers the appeals process and serves the AAB and AHO, schedules hearings, and maintains all records and filings. The COB provides appeal applications to the public and reviews the returned applications for completeness and accuracy. The COB transmits a copy of the appeal with related detail to the OOA, which considers the evidence. The COB will then schedule a hearing.

The assessment appeals process entails these broad, general steps:

- Applicant submits appeal to the COB during the filing period
- COB reviews application for completeness and timeliness and forwards information to the OOA
- COB schedules application for hearing and notifies taxpayer and the OOA
- AAB reviews evidence and renders a decision
- COB forwards the decision to the OOA, Auditor-Controller, and taxpayer

4.4 Assessment Appeals Board (AAB) Rules of Procedure

AAB members are appointed by the Board of Supervisors (BOS) to act as the county's Board of Equalization. The AAB equalizes (establishes the correct amount) property valuations for the purpose of taxation. AHO are also appointed by the BOS to conduct hearings on property tax appeals and report their decisions to the AAB.

The introduction section of the AAB and AHO Rules of Procedure, September 12, 2005, states that the function of the AAB and AHO is to conduct hearings on property assessment disputes between taxpayers and the OOA. AAB and AHO equalize valuations and direct the OOA to make changes, additions, and cancellations to the tax rolls as necessary.

The AAB can conduct hearings on applications of all types of property for all amounts. AHO can only hear cases involving residential real property, which are subject to certain limitations. Decisions of AHO were ratified by an AAB but could not be appealed, except to the Superior Court. As of February 2006, all decisions by AHO are final.

4.5 Selection and Training of the AAB Members and AHO

California law requires that a county not have more than five AABs. Orange County has established that number. There is presently a total of 14 members. There are also two AHO serving at this time.

According to Rules of Procedure Rule Number 17, to ensure that AAB members and AHO are knowledgeable on the statutes, rules, policies, and administrative procedures within their jurisdiction, all members are required to meet the following qualification and training requirements:

- AAB personnel are licensed/certified for a five year period. They must have experiences in at least one of these occupations: attorney, real estate broker, appraiser, or CPA/public accountant. AHO nominees must be similarly qualified.
- Every person newly appointed as an AAB member shall complete training conducted by the State Board of Equalization prior to the commencement of his/her term on the board or as soon as is reasonably possible within one year thereafter. A member who does not complete this mandated training as stated above shall complete the training within 60 days of the date of the notice by the COB advising the member that his/her failure to complete the training constitutes resignation by operation of law.
- Every AAB member and AHO shall attend a maximum of four training sessions established by the COB. At least one make-up session will be offered for each training session to accommodate member schedules. Failure to attend can result in non-scheduling of the member until a make- up session occurs.

4.6 County Counsel

The County Counsel provides legal support to the AAB, prepares findings of fact, approves the legality of the stipulations (mutual agreements) between the OOA and taxpayers, and, upon request represents the AAB on legal issues at hearings. Pursuant to Government Code 3100.7, the County Counsel may also represent the OOA as long as representation is by different attorneys from the Office of the County Counsel.

4.7 Auditor-Controller

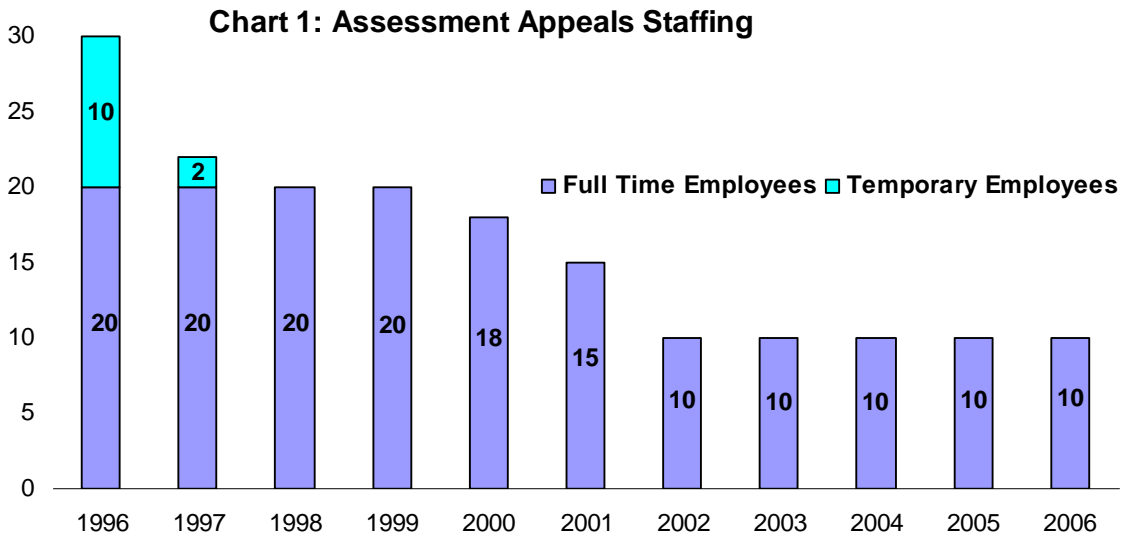
The Auditor-Controller calculates property tax bills based on the assessed valuation and tax rate, calculates and adjusts the tax rolls in amounts developed from assessment appeals results, and processes taxpayer refunds for prior year assessments.

4.8 Treasurer-Tax Collector

The Treasurer-Tax Collector determines owner of record, mails tax bills, collects property tax payments, and originates current year property tax refunds.

4.9 Staffing for the Appeals Process

The COB has ten full-time employees assigned to the handling of assessment appeals. This number has remained constant since 2002. In 1996, prior to the expanded automation of the process and the implementation of other changes, there were 30 employees (20 full-time and 10 temporary).



The OOA has 15 full-time employees assigned to the appeals function, six in residential real estate, five in commercial and industrial real estate, and four in business property.

4.10 Assessment Appeals Statistics

Table 1 illustrates the dramatic increase in assessment appeals during the mid-1990s (FY 1993-1994 through FY1996-1997), coinciding with a steep decline in the real estate market. As the necessary changes in the appeals process were implemented and as prices increased, the backlog of unresolved claims was reduced until the situation was under control by FY 1998-1999. The rapid escalation in real property prices from the late 1990s to the present reduced the number of appeals to 20-25% of the level experienced during the mid-1990s.

Table 1: Orange County Property Tax Appeals History
Fiscal Years 1991-1992 through 2004-2005

FISCAL YEAR	NUMBER OF APPEALS				
	CARRYOVER FROM PRIOR YEAR	NUMBER FILED	TOTAL WORKLOAD	LESS APPEALS RESOLVED	TOTAL BACKLOG
1991-92	12,582	13,300	25,882	8,601	17,281
1992-93	17,281	16,672	33,953	13,701	20,252
1993-94	20,252	41,419	61,671	29,843	31,828
1994-95	31,828	36,072	67,900	25,297	42,603
1995-96	42,603	33,147	75,750	41,279	34,471
1996-97	34,471	32,711	67,182	39,125	28,057
1997-98	28,057	24,234	52,291	32,141	20,150
1998-99	20,150	8,839	28,989	24,380	4,609
1999-00	4,609	7,014	11,623	6,095	5,548
2000-01	5,548	7,688	13,236	10,161	3,075
2001-02	3,075	7,353	10,428	7,209	3,219
2002-03	3,219	7,351	10,570	5,687	4,683
2003-04	4,683	9,147	13,830	7,004	6,826
2004-05	6,826	8,528	15,354	10,518	4,836

[Note: The COB and OOA estimate that 2005-2006 total backlog will be less than 2,000]

5. Observations and Discussion

5.1 Current Status and Planning for the Future

In 1996, the State Board of Equalization named Orange County’s property tax appeals system as the worst in the state. Through greatly enhanced automation, effective redesign and improvement of procedures, and intensive staff training, the county’s program was designated as the “Best Run Assessment Appeals Operation” in 2006 by the State Board of Equalization.

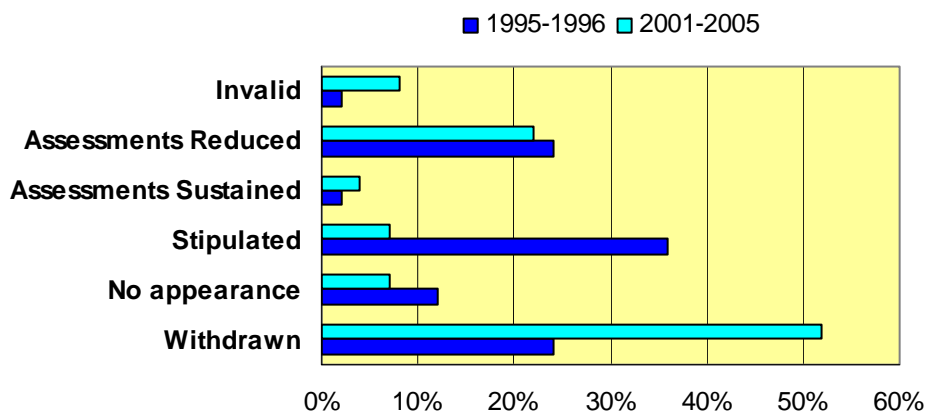
In 1996, communication and cooperation between the independent departments involved in the appeals process was not at an appropriate level. Since then regularly scheduled meetings have been held between the departments and a greater understanding and more effective combined effort have resulted.

The COB has developed its website to permit filing of assessment appeals online. An applicant can also obtain instructions, assistance, and status of their appeal through the website (www.oc.ca.gov/cob). This is also available on computers located in Orange County libraries. Appeals documents can also be transmitted to the COB via fax, with the exception of a few key forms.

The COB has an active community outreach effort. Some examples of this are: workshops for tax agents, annual meetings and instruction for senior groups, workshops for groups with special and specific interests, and a presence at the county fair.

Chart 2 depicts FY 1995-1996 versus the past 5-year period.

Chart 2: Assessment Appeals Resolutions



In the recent segment twice as many appeals were withdrawn (52%) than FY 1995-1996 (24%). On the other hand, stipulated claims (those resolved between the assessor and tax payer) are five times more prevalent in FY 1995-1996 (36%) than in the 2001-2005 period (7%).

Reasons for these disparities include the following factors:

- The huge backlog in FY 1995-1996 afforded insufficient time to carefully review many appeals
- The county’s bankruptcy precluded the acquisition of resources to accomplish the task in an optimum manner
- The greatly reduced number of appeals filed during the robust real estate market of recent years permitted more review and communication of claims with applicant, with an attendant decline in stipulations and increase in withdrawals
- Increased efficiency in handling claims through effective automation, process enhancements, and development of staff skills and knowledge

Looking ahead, the automated appeals processing system will be undergoing redesign and refinement, one of the goals is conversion to a Windows based computer system by a

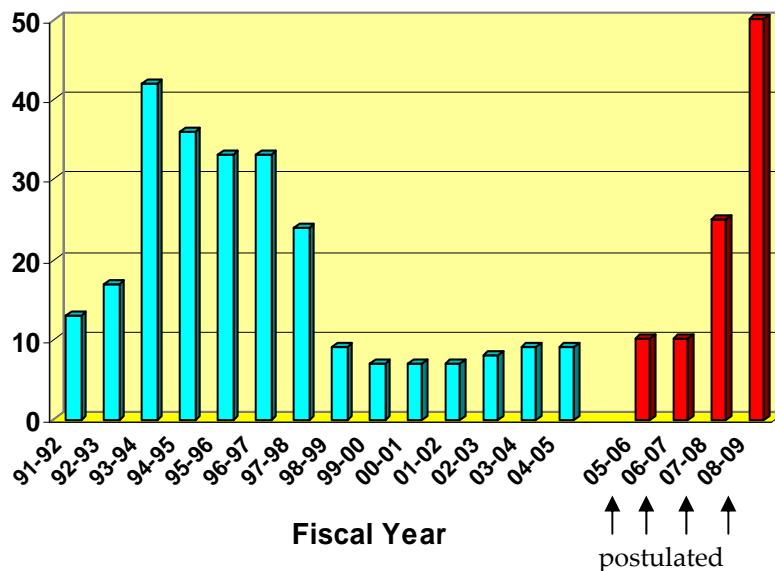
target date of 2009. Training employees will be ongoing. Outreach to the public will be stressed, with new areas and techniques being explored.

5.2 Effects of Hypothetical Deflation

If a real estate “bubble” does exist and bursts, both the COB and the OOA are confident that they will be able to meet the challenge from a staffing standpoint. The COB would be able to have new hires and temporary employees work alongside experienced staff members and thus become productive more quickly. The OOA has the ability to move people from other areas to the appeals section in order to contend with increased workload.

Extrapolating from the experiences of the mid-1990s, the number of property appeals filed could be approximately four to five times the number of claims currently processed by the COB and OOA. The number of parcels has increased approximately 16% in the last ten years. Chart 3 indicates the peak number of property appeals filed in FY 1993-1994 and an estimated peak in FY 2008-2009 as a hypothetical case postulated by the Grand Jury.

**Chart 3: Total Property Tax Appeals Filed
(In Thousands)**



6. Findings

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2005-2006 Grand Jury has arrived at the following findings:

- 6.1** *Orange County Is Prepared to Deal With A Large Increase In Property Tax Appeals:* The COB and the OOA have made significant improvements in their operations that provide the capacity of handling a substantial increase in the volume of appeals.
- 6.2** *The COB and the OOA Are Continuing To Study and Improve Their Operations:* Both departments have ongoing programs to design even more effective systems and procedures. Employee training is ongoing and new techniques of providing additional service and outreach to the public are pursued.
- 6.3** *Significant Claims Increase:* If a substantial decrease from present real estate prices occurs, there would be an accompanying increase in assessment appeals. Using the mid-1990s situation as a benchmark, it is estimated that the number of appeals currently being filed might represent only 20-25% of what could result from a bursting real estate “bubble”.

Responses to Findings 6.1 through 6.3 are required from the Assessor of Orange County.

Responses to Findings 6.1 through 6.3 are requested from the Clerk of the Board.

7. Recommendations

In accordance with California Penal Code §933 and §933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2005-2006 Orange County Grand Jury makes the following recommendations:

- 7.1** *Maintain The Current Level of Performance:* The level of performance achieved by the COB and OOA over the last 10 years should be sustained. (See Finding 6.1)
- 7.2** *Continue To Seek Ways For Expansion and Refinement Of The Appeals Cycle:* Emphasis on activities such as the following should be stressed: (1) expanding the capabilities of the automated systems, (2) educating and keeping employees current in their knowledge and skills, and (3) finding additional ways and sources to contact and service the public. (See Finding 6.2)
- 7.3** *Test current systems' capabilities:* The COB and OOA should consider conducting tests of current systems to ensure that, in the event of a repeat of the mid-1990s increase of assessment claims, processing will be accomplished expeditiously and within department guidelines. (See Finding 6.3)

Responses to *Findings 7.1* through *7.3* are required from the Orange County Assessor.

Responses to *Findings 7.1* through *7.3* are requested from the Clerk of the Board.

8. References

1. "Orange County Assessment Appeals Backlog Study", 1994-1995 Orange County Grand Jury Report,
2. AAB and AHO Rules of Procedure, September 12, 2005
3. OOA and COB MOU, September 27, 2005
4. OOA Policies and Procedures
5. COB Policies and Procedures and Program Enhancements
6. Assessment Appeals Statistics from the COB and the OOA