

# **ALAMEDA COUNTY ASSESSMENT APPEALS BOARD RULES OF PROCEDURE**

Adopted by the Alameda County Board of Supervisors  
June 29, 2021

## **Rule 1 – Prehearing Conferences**

### **A. Purpose**

The purpose of the prehearing conference is to resolve procedural and legal issues to the greatest extent possible in order to streamline and focus the evidentiary hearing on the merits. At the prehearing conference, the parties shall be prepared to discuss the scheduling of the hearing on the application and the time estimate for such hearing. In addition, the parties may apprise the Assessment Appeals Board (“Board”) of other issues such as:

- i. Exchange of information pursuant to Revenue and Taxation Code section 1606;
- ii. Request for information pursuant to Revenue and Taxation Code sections 408 and 441;
- iii. Subpoenas pursuant to Revenue and Taxation Code section 1609.4 and 1609.5;
- iv. Whether the parties have engaged in or completed case preparation, discovery or settlement of non-controverted issues;
- v. The factual and legal issues in dispute;
- vi. The names of the witnesses to be called, the order of testimony and the anticipated duration of the hearing;
- vii. The readiness of the parties to proceed with the hearing;
- viii. Consolidation of applications for hearing; and
- ix. Bifurcation of issues.

### **B. Authority to Request a Prehearing Conference**

- i. One prehearing conference may be held at the request of the Assessor, the applicant or the applicant’s authorized agent.
- ii. If the request is made by the applicant or applicant’s authorized agent, the applicant shall execute a waiver agreement pursuant to Revenue and Taxation Code section 1604(c), extending indefinitely the two (2) year statutory deadline.
- iii. The Assessor may not request and the Board shall not order a pre-hearing conference if the application is within 120 days of expiration of the statutory deadline under Revenue and Taxation Code section 1604(c), unless the applicant has on file with the Clerk of the Assessment Appeals Board (“Clerk”) an executed waiver agreement.

- iv. In addition, the Board may order as many prehearing conferences as it deems necessary to facilitate orderly proceedings and may continue any prehearing conference as it deems necessary. It shall be the policy of the Board to continue prehearing conferences, where doing so will further settlement discussions between parties that desire to reach amicable resolution of assessment appeals.

**C. Form of Request**

- i. A request for a pre-hearing conference by the Assessor, the applicant or the applicant's authorized agent shall be filed with the Clerk and the requesting party shall send a copy within two business days to the other party by U.S. Mail, private courier or personal delivery. The request shall include a list of all of the issues the requesting party seeks to have discussed, and the requesting party's position on those issues. If the parties make a joint request after the setting of a hearing in the matter that has been continued at least once, or a request for a second prehearing conference, the request shall include a written statement by the parties establishing good cause in accordance with Property Tax Rule 323.
- ii. If the request is made by only one party, the other party may submit a written response to the request outlining its position on the issues raised in the request and identifying any additional issues and its position on those additional issues. The response must be filed within 15 days following the date the request for hearing was filed.
- iii. When the Board on its own orders a prehearing conference, its order shall include the issues it would like to discuss. The parties may file responses outlining their positions on the issues raised and identifying additional issues within 15 days of issuance of the order.
- iv. The prehearing conference shall be confined to those issues identified by the Board and the parties in a request, the response to a request, in a joint request or order, except as may be agreed by stipulation of the parties or approval of the Board.
- v. The parties are strongly encouraged to file joint requests for a prehearing conference. The parties shall meet and confer in advance of making a request or joint request for a prehearing conference, in an attempt to resolve informally as many issues as possible in advance of the prehearing conference. Any request or joint request for a prehearing conference must include a statement of the efforts made to meet and confer to resolve issues. The Clerk shall reject for filing any request or joint request that does not include a statement of the efforts made to meet and confer.
- vi. After consultation with the Assessor, members of the Board and other interested parties, the Clerk may create forms for submitting requests for a prehearing conference, and if such forms are created their use shall be mandatory.

#### **D. Notice**

- i. Unless the Board directs otherwise, upon receiving a request from a party for a prehearing conference in compliance with this Rule, the Clerk shall set the matter for a prehearing conference.
- ii. The Clerk shall notify the Assessor, the Assessor's counsel, the applicant/applicant's authorized agent, of the time, date and location of the prehearing conference. Notice to the applicant/applicant's authorized agent shall be given in writing not less than 30 days prior to the conference unless the Assessor and the applicant/applicant's authorized agent stipulate in writing to a shorter notice period. It shall be the practice of the Clerk to set prehearing conferences within 90 days of the submission of a request. The notice shall include a copy of the requesting party's written request. Any party may agree to electronic notice of a conference or rescheduling of a conference.
- iii. If the request is a joint request for a prehearing conference after the hearing in the matter has been set and for which there has been no prior continuance of the hearing, the Clerk shall vacate the hearing date if the applicant has on file with the Clerk an executed waiver agreement as set forth in Rule 1, B. ii. above and set the date of the prehearing conference. If the request is a joint request for a prehearing conference after the hearing in the matter has been set and previously continued at least once, the Clerk shall set the request for the prehearing conference for consideration of good cause for the continuance of the hearing at the date and time of the existing hearing date. If the request is for a second prehearing conference, the Clerk shall only set the matter for a second prehearing conference if it is accompanied by a statement of good cause.
- iv. If a prehearing conference is vacated for any reason, a 10-day notice may be given for the rescheduled conference.

#### **E. Filing of Written Materials and Briefs**

Unless otherwise ordered by the Board, pursuant to Section F i., any written materials, including legal briefs, to be presented at the prehearing conference shall be submitted to the opposing party by U.S. Mail, private courier or personal delivery with a courtesy copy by email (when email addresses have previously been provided) with four (4) copies filed with the Clerk no later than 15 days prior to the scheduled prehearing conference. Responsive written materials shall be submitted to the opposing party by U.S. Mail, private courier or personal delivery with a courtesy copy by email (when email addresses have previously been provided) with four (4) copies filed with the Clerk no later than seven (7) days prior to the commencement of the scheduled prehearing conference.

#### **F. Orders by the Board**

- i. At the prehearing conference, the Board may order one or both parties to submit a further status report or order legal issues briefed in accordance with a briefing schedule. The Board may continue its deliberations on the issues for which it orders a status report or legal briefing to a later date and issue further orders

without convening a further conference or hearing. The failure of a party to file with the Clerk and send to the other party a post-conference status report or legal brief when ordered by the Board shall be grounds for the Board to consider that issue abandoned by the requesting party.

- ii. At the conclusion of the prehearing conference, the Board shall issue an order, or may in lieu of issuing its own written order direct a party to prepare a proposed order resulting from the decisions/conclusions made by the Board at the prehearing conference. The order shall be submitted to the Clerk and other party no later than fifteen (15) days from the conclusion of the conference. The opposing party has seven (7) days from the date of submission in which to file a response.

#### **G. Failure to Appear**

The unexcused failure of an applicant to appear for a properly noticed prehearing conference shall constitute abandonment of the appeal, and any hearing on the merits, if already scheduled, shall be canceled. Any appeal dismissed on the basis of this subpart may be reinstated in accordance with Rule 2.

#### **Rule 2 – Reconsideration and Rehearing**

The decision of the Board upon an application is final. The Board shall not reconsider or rehear an application after it issues its decision unless:

- A. The decision reflects a ministerial clerical error; or
- B. The decision was entered as a result of the applicant's/applicant's agent's failure to appear for the conference or hearing, if both of the following are established:
  - i. The request for reconsideration or rehearing is filed with the Clerk within 60 days from the date of mailing of the notification of denial due to lack of appearance. Any request filed beyond the 60-day period shall be denied by the Board.
  - ii. The applicant/applicant's agent furnishes evidence establishing, to the satisfaction of the Board, excusable good cause for the failure to appear.

Any request for reconsideration or rehearing shall be filed in writing with the Clerk, and a copy of the request shall be sent to the other party.