



Assessment Appeals

AI 2024 Fall Conference

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Definition of Value



California State
Board *of* Equalization

Fair Market Value Standard (for Property Tax Purposes)

- R&TC Section 110 & Rule 2 - "Full Cash Value" or "Fair Market Value"
- If exposed for sale in the open market under conditions in which..
- Neither buyer nor seller could take advantage of the exigencies of the other
- Both the buyer and seller have knowledge of the uses and purposes to which the property is adapted and for which it is capable of being used
- Both the buyer and seller have knowledge of the enforceable restrictions upon those uses and purposes

www.boe.ca.gov

Laws, Codes & Rules

Governance Over Property Tax Assessments & Appeals

- Revenue & Taxation Code (R&TC or RTC) - Legislative
- Property Tax Rules (Real & Personal Property) – BOE Adopted
- BOE Assessor Handbook Sections (Guidance)
- BOE Assessment Appeals Manual
- BOE Residential Property Assessment Appeals (Pub. 30)

All are Interrelated & Can Be Found @ www.BOE.ca.gov

Suggestion - View 25-Minute Video on BOE Website

Other Resources

Letters to Assessors (LTAs) - BOE

- Ongoing advisory service for county assessors and other interested parties

Annotations – (BOE)

- Summaries of the conclusions reached in selected legal rulings of counsel

Local Rules of Procedures

- Unique to each County's Assessment Appeals Board
- Rules related to noticing and other procedures required to facilitate the work of a county's Assessment Appeals Boards

Interests-Rights



California State
Board *of* Equalization

- R&TC Sec. 110, Property Rule 2, AH 501 & AH 502
 - Applies to “Full Cash Value”, “Fair Market Value”, etc.
 - Other than for Possessory Interests (Specific Rules Apply)
 - Price for the Unencumbered or Unrestricted Fee Simple Interest
 - Unencumbered by any Private Interests (e.g., leases, liens, etc.)
 - Subject to Legally Enforceable Government Restrictions
 - Assessor may convert the Sale Price encumbered by lease rental terms above or below current economic or market rent to its Unencumbered Fee Price Equivalent.
 - Sales used as indicators of Market Value should be equivalent to Fee

Interests-Rights (Cont.)

- Property Rights - AH 502 (p. 5 & 6) & Rule 4
 - General Rule – Private Parties cannot influence taxable value by imposing private encumbrances upon it
 - See Property Tax Rule 4(b)(2) – How to treat a lease containing rental terms that are below or above market rent
 - “Fee Simple - Unencumbered” Has Been the Subject of Controversy
 - Use “Market Rents” vs. “Actual Rents” (unless Equivalent)

Presumptions – Real Property Value

- Land & Improvements (if any) Only
- Tangible Personal Property (FF&E) Excluded
 - Assessed Separately
 - Verify What is Claimed on Business Property Statement (571L)
 - Avoid FF&E Being Double-Assessed
- Intangible Assets & Rights Exempt From Taxation (R&TC 112)
 - Non-Realty Items / Income for Services
- Going Concern Price/Value May Include FF&E & Intangibles
 - See Standards Rule 1-4(g) in USPAP / Chapter 37 (15th Edition)

Burden of Proof

- Law Presumes Assessor Has Properly Performed Duties
 - This Imposes The Burden of Proof on the Applicant
 - Applicant Must Prove Their Opinion of Value
- Assessor Has Burden of Proof in the Following Instances:
 - Assessments of Owner-Occupied Single-Family Dwellings
 - Escape Assessments (if Owner has cooperated, etc.)
 - Assessor Recommends an Increase to Assessed Value
 - Non-enrollment of the Purchase Price When Property Sold
 - Imposition of Penalty Assessment (Personal Property)

See R&TC 110 and Property Tax Rule 321

Purchase Price Presumption

- Applies to Change-in-Ownership (i.e., Sale)
- Presumes that Consideration Paid = Fair Market Value
- Party Seeking to Overcome Presumption has Burden of Proof
- Significant Difference (Deviation) Should Be >5% of Price
 - If Less than 5% Difference, then Price Enrolled by Assessor
- Many Appeals by Homebuyers Who Bought during Pandemic

See R&TC 110(b) & Property Tax Rule 2: The Value Concept

Deriving Capitalization Rates

- Analysis of Comparable Sales
 - Use Anticipated Income & Expenses
 - Deduct Ad Valorem Taxes (based on Sale Price) & Direct Levies
- Band of Investment
 - Weighted Average of Debt & Equity Positions
- Debt Coverage Formula (Ratio)

See Property Tax Rule 8 & AH 502 (p. 77 to 80)

Capitalization Rates - Valuation

EXAMPLE 4-12: Valuation Using an Overall Capitalization Rate

The subject property's estimated market net income before recapture and property taxes is \$780,000. The overall capitalization rate selected from OAR's derived from comparable sales (or the band of investment) is 9.50%. The effective ad valorem property tax rate is 1.10%. The market value of the property is estimated as follows:

$$\begin{aligned} MV &= MNIBR\&T / R_o + ETR \\ &= \$780,000 / 0.095 + 0.011 \\ &= \$780,000 / 0.106 \\ &= \$7,358,490 \text{ say } \$7,355,000 \end{aligned}$$

- Do Not Deduct Ad Valorem Tax as Expense to Estimate Net Operating Income
- Load Ad Valorem Tax Rate to Cap Rate (Except on NNN Lease Terms)

See AH 502 (p. 82) & Property Tax Rule 8

- *Cap Rate and Tax Rate are Both Income Rates*

2024 USPAP Guidance & Reference Manual

AO-21 – USPAP Compliance

AO-32 – Ad Valorem Property Tax Appraisal and Mass Appraisal

AO-34 – Retrospective and Prospective Value Opinions

FAQ 11 – Appraiser Coercion

FAQ 40 – Appraisal Fees Based on Outcome of Assignment

FAQ 41 – Acting as an Appraiser

FAQ 157 – Retrospective Appraisal Assignments

FAQ 199 – Allocation of Value Opinions

FAQ 347 – Valuation Service Involving Advocacy