

Office of the Assessor

County of Santa Clara

County Government Center, East Wing
70 West Hedding Street, 5th Floor
San Jose, CA 95110-1771
(408) 299-5500 www.sccassessor.org
Assessor@asr.sccgov.org



Lawrence E. Stone, Assessor

January 17, 2019

Sent via email

RE: Assessment Appeals Decision, 49ers/Levi's Stadium

You are invited to a meeting on Wednesday, January 23, 2019 at 2:00 p.m. at the Santa Clara County Government Center at 70 W. Hedding Street, San Jose, CA 95110, Room 157, located adjacent to Board of Supervisors' Chambers. The meeting concerns the Assessment Appeals Board (AAB) November 28 ruling concerning the assessment of Levi's Stadium.

While the findings of fact, which is the basis for the AAB decision, have not been finalized, the ordered reductions in assessed value and the associated property tax refunds may be charged to agencies in June 2019.

Due to the magnitude of the charges to the taxing entities, estimated at 50%, we are convening the meeting to bring together professional staff from the Finance Agency (Controller/Tax Collector), Assessor's Office, and County Counsel. At the meeting, we will answer questions regarding the AAB's preliminary determination, the estimated financial implications of this decision, the methodology for planned refund allocations, and potential options moving forward. I will also provide information describing the Assessor's past approach to AAB decisions.

You are welcome to bring professionals from your staff, legal counsel, or financial advisors to the meeting. The information provided will be as of January 23, and we will keep you apprised of any significant, substantive changes thereafter. Upon request, I will be happy to meet with your elected board.

For your information, we are advising members of the media and other stakeholders on January 23. I want to assure you that we vigorously defended the enrolled assessed value and strongly disagree with the AAB decision.

Please RSVP to Lori Cichon at lori.cichon@asr.sccgov.org, or 408-299-5567, at your earliest convenience if you plan on attending the meeting.

Sincerely,

A handwritten signature in blue ink that reads "Lawrence E. Stone". The signature is written in a cursive style and is positioned above the printed name and title.

Lawrence E. Stone
Assessor

LES:lcc

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Lawrence E. Stone, Assessor

MEMORANDUM

TO: Honorable Board of Supervisors

CC: Steve Mitra, Assistant County Counsel
Alan Minato, Director of Finance

FROM: Lawrence E. Stone, Assessor 

DATE: January 17, 2019

RE: Informational Meetings with Taxing Entities

Representatives of the Assessor's Office, Finance Agency, and County Counsel intend to meet with officials of taxing entities affected by the Assessment Appeals Board (AAB) November 28, 2018 decision on the Forty Niners SC Stadium appeals on Wednesday, January 23, 2019.

The unfavorable decision rendered by the AAB will result in significant refunds to the applicant and will be charged to the taxing entities. The most severely impacted will be the County of Santa Clara, Santa Clara Unified School District, West Valley Community College, and the Education Revenue Augmentation Fund.

Prior to meeting with the taxing entities on January 23, the Assessor's Office, Finance Agency and County Counsel will provide to the Board of Supervisors an off-agenda Memorandum with all the information to be provided to the taxing entities no later than Tuesday, January 22, 2019.

If you or your chief deputies have questions or would like a briefing, please contact David Ginsborg at extension 5572.

LES:lcc

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Lawrence E. Stone, Assessor

MEMORANDUM

TO: Honorable Board of Supervisors
Dr. Jeffrey Smith, County Executive

CC: Steve Mitra, Assistant County Counsel
Alan Minato, Director, Finance Agency

FROM: Lawrence E. Stone, Assessor 

DATE: January 22, 2019

RE: Informational Meetings with Taxing Entities

Following up to my Memorandum dated January 17, 2019, I write to provide you with the agenda and supporting materials that I and representatives of the Finance Agency will present at meetings with taxing entities affected by the AAB decision on the Forty Niners SC Stadium appeal.

Narratives provided as attachments to this Memorandum will only be provided verbally. The only hard copy portion of the presentation will be the fiscal impact analysis prepared by the Finance Agency.

This is the primary reason why appraisal experience and professional credentials are so important for Assessment Appeal Board appointments. There is no place for appointing Board members with "minimum qualifications".

If you or your chief deputies have questions or would like a briefing, please contact David Ginsborg at extension 5572.

4 Attachments:

1. Meeting Agenda
2. Assessor Explanation
3. Finance Agency Explanation
4. Fiscal Impact Estimate

LES:lcc

Levi's Stadium Assessment Informational Meeting

AGENDA

Wednesday, January 23, 2019

9:00 – 10:00am

1. Introduction: Greg Monteverde, Assistant Assessor
2. Assessment Appeal Discussion: Larry Stone, Assessor
3. Refund and Charges to Taxing Entities: Veronica Niebla, Controller's Office
4. Q & A

Comments to Public Entities Re: Levi Stadium Appeal Decision
Lawrence Stone, Assessor
January 23, 2019

Unfortunately, I have some very disappointing news. The Assessment Appeal Board's (AAB) recent decision essentially cuts the property tax obligation in half for the Forty Niners SC Stadium Company "Stadco".

We expect this decision will cause \$30.8 million in refunds this year, and a \$6 million reduction in taxes collected every year thereafter.

The AAB decision was shocking and unexpected.

The result will likely have significant financial consequences, especially for Santa Clara Unified, which will be shouldering the largest burden of just over a \$13 million reduction initially.

The Santa Clara County will take a \$5.3 million hit.

I am not used to delivering this type of news. This is the first such meeting I have ever had to call, in 24 years.

Our 3 assessment appeals boards do not always agree with our assessments, but most of the time when they disagree, we are close.

During the past 24 years as your Assessor, over 90% of the contested assessed value or value at risk has been sustained by our AAB's. Last year it was 97%.

So, a 50% reduction for a single appeal is highly out of the ordinary. In my opinion, the AAB reached the wrong conclusion.

We vigorously defended our assessment of Stadco.

This was without doubt one of the most complicated assessments ever performed by my office. The actual cost, a measure of value of the Stadium, was largely not disputed by the parties.

In dispute was the scope and magnitude of the private benefit in this public property enjoyed by Stadco, and, therefore, the amount and responsibility for the property taxes.

Had the Stadium been held privately, there would be no dispute over allocation. But because the possession rights are shared in a complicated set of multiple agreements involving public and private entities, the law requires the Assessor to treat this assessment as a possessory interest (PI).

A PI is when a private, for-profit entity uses public exempt property. For example, Peet's

Coffee has a facility in the San Jose Convention Center. Peet's has a small possessory interest in the Convention Center, and must pay the equivalent property tax for the use.

That's so Peet's doesn't have a competitive advantage and a financial benefit over the Starbucks across the street, who pays their prorata share of property tax in their lease with a private owner. Fair is fair.

The assessment appeals board agreed with Stadco that they are effectively not getting any benefit from the property outside of the football season.

I believe that is incorrect, and an oversimplification at the heart of a flawed conclusion.

Fundamentally, this dispute is about the value of the private benefit that Stadco (49ers) enjoys in the property.

The problem of determining Stadco's interest is that it is defined by dozens of interlocking, intricate agreements totaling thousands of pages, and structured, I believe, to achieve this very outcome.

The County Counsel assigned two attorneys, and I had a team of people working on this appeal, including our Chief Appraiser.

The agreements are so complicated that we retained a forensic accountant, as well as a MAI appraiser with expertise in valuing stadiums and ballparks.

In total, there were 21 hearings, by far our longest appeal ever. Most assessment appeals take no more than a half or a full day.

The County has only received a basic summary of the decision. We have not received the final "Findings of Fact," which will detail the basis for their decision.

Nevertheless, their decision requires us to proceed with issuing refunds, almost immediately.

I now want to turn this over to the Controller who will go over how the refunds will be processed and the timeline.

Comments to Taxing Entities Re: Levi Stadium Appeal Decision

Finance Agency

January 23, 2019

Preliminary Fiscal Impact Estimate of the 49ers/Levi Stadium Assessment Appeal Board Decision – January 23, 2019

The impact of the Assessment Appeal Board's (AAB) decision to reduce the assessed value for the 49ers/Levi Stadium will be completed through the roll correction process. The assessed value roll corrections include a reduction to the 1% maximum levy (secured and supplemental) and the voter approved bond and debt levies.

The 1% maximum levy (secured and supplemental) will be charged to City of Santa Clara Successor Agency's Redevelopment Property Tax Trust Fund (RPTTF) because Levi Stadium is in a former redevelopment agency (RDA) project area. Due to the magnitude of the roll correction and the concentration to one RDA tax rate area, this appeal roll corrections will be charged to the City of Santa Clara Successor Agency RPTTF directly in current year, rather than allocating to all non-RDA countywide jurisdiction in current year and re-allocating to the corresponding RDA in next year through prior year RDA roll corrections.

This AAB decision roll correction will reduce the amount of tax increment allocated (secured and supplemental 1%) to the agency's RPTTF, by approximately \$30.8M. This amount will reduce the pass-through and residual distributed to the affected taxing entities. The impact to each affected taxing entity for the June 1, 2019 RPTTF distribution is provided in the attached schedule.

Roll corrections for bond and debt levies are applied to the respective levying entity as an adjustment to the current year property tax distribution. The impact to each levying taxing entity for fiscal year 2018-2019 is provided in the attached schedule. The reductions for voter approved bond levies will reduce fund balances and could potentially require a rate increase for next year to recover the reductions. However, this should not impact current year debt service payments.

Preliminary FY2018-19 Fiscal Impact Estimate of 49ers/Levi's Stadium Assessment Appeal Decision

Assumptions:

Refund on: Secured 1% Tax	\$	24.80
Supplemental 1% Tax	\$	6.00
	\$	<u>30.80</u>

I. Impact on 1% Property Tax Levy to Affected Taxing Entities

	Estimate Decrease to FY2018-19 Pass- through	Estimate Decrease to FY2018-19 Residual	Estimate Total Decrease to FY2018-19 Pass-through and Residual
	in million	in million	in million
County General	\$ 1.16	\$ 4.15	\$ 5.30
Santa Clara	0.62	2.24	2.86
Santa Clara Unified	8.97	4.16	13.12
West Valley Community College	0.68	2.46	3.14
County Office of Education	0.99	0.40	1.38
Santa Clara Valley Water Districts	0.14	0.50	0.63
El Camino Hospital	-	0.00	0.00
Bay Area Air Quality Mgmt.	0.02	0.05	0.07
Santa Clara Parking District No.122	-	0.01	0.01
Santa Clara Bridge District	0.00	0.00	0.01
Educational Revenue Augmentation Fund	0.93	3.34	4.27
	<u>\$ 13.50</u>	<u>\$ 17.30</u>	<u>\$ 30.80</u>

II. Impact on Voter Approved Bond and Debt Levies

	Estimate Decrease to FY2018-19
	in million
County Retirement	\$ 1.20
County Bond 2008 Hospital Facility	0.25
County Housing GO Bond	0.39
Santa Clara Unified GO Bond	2.55
West Valley Community College	0.62
Santa Clara Valley Water District	0.19
	<u>\$ 5.20</u>