



SOLANO COUNTY GRAND JURY
2017-2018

**PROPERTY TAX ASSESSMENT & PAYMENT
PROCESSING REVIEW**

Property Tax Assessment & Payment Processing Review

Solano County Grand Jury 2017-2018

I. SUMMARY

The 2017-18 Solano County Grand Jury performed a functional review of property tax assessment and payment processing system. The components of the property tax cycle performed by the offices of the County Assessor, Tax Collector, Auditor-Controller, and Assessment Appeals Board were examined. The review included the Solano County Integrated Property System replacement project.

The Solano County Grand Jury's functional review and testing found the property tax cycle has adequate operational oversight to effectively manage assessment, collection and distribution of property tax revenue within the County.

The Grand Jury finds a small number of large commercial property owners in Solano County take advantage of the assessment appeals process to prolong their final property tax liability determination. While the California Revenue and Taxation Code specifies that property tax assessment appeals shall be resolved within two years, these few commercial entities prolong the final determination of their property tax appeals for five or more years. This delaying strategy is costly to the County in terms of legal fees for outside counsel and consultants, loss of the use of tax receipts held in escrow and the persistent potential for huge tax revenue losses to the county, schools, cities and special districts.

II. INTRODUCTION

In California, property taxes are assessed and collected at the local level for all property except that held by public utilities. Property held by public utilities is assessed by the state Board of Equalization. Property taxes are determined by assessed values and represent a major source of revenue for the county, cities, schools, and special districts. In 1978, California voters overwhelmingly passed a property tax limitation initiative (Proposition 13). This rolled back property assessments to 1975 market value levels and limited the tax rate to 1 percent plus voter approved bond indebtedness, service fees, and special assessments. It also limits future annual increases to no more than 2 percent except when property changes ownership or undergoes new construction.

Proposition 8, also approved in 1978, enables the assessor to reflect declines in property values. A provision was added to the Revenue and Taxation Code, which allows the assessor to temporarily lower the assessed value under certain conditions. If the assessed value is reduced under Proposition 8, the property is automatically reviewed annually for adjustment to an appropriate level. If property owners do not agree with the opinion as to the market value they have the right to request a review with the assessor and/or file a formal appeal with the Assessment Appeals Board (AAB).

The collection of the taxes and their allocation to the appropriate tax-levying agencies are functions of the county tax collector and the county auditor-controller. If taxes are not paid by the delinquent date, a notice of default is sent. If the taxes remain unpaid the property can be declared tax defaulted. The owner can redeem the property by paying the taxes, penalties and costs. After five years of non-payment the property may be sold at public auction.

The 2010-11 Solano County Grand Jury published a report titled “Assessor’s Office and Declining Property Values”. At that time property values were in a decline leading to a decrease in property tax revenue for the County. In accordance with Proposition 8 the assessor was required to reduce the assessed value of properties that declined below purchase price or Proposition 13 value. A Finding and Recommendation was issued that when property values increased again the Assessor’s Office would need adequate staffing and technology to handle the activity processes. Since that time the County has experienced six years of increasing values. The 2017-18 Grand Jury decided to undertake a property tax assessment and payment processing review.

**Total of Assessed Values in Solano County
in billions of dollars**



Source: Solano County Assessor-Recorder

III. METHODOLOGY

Techniques used in deriving facts included:

- Interviewed County representative(s) from:
 - Assessor/Recorder Office
 - Treasurer/Tax Collector/County Clerk Office
 - Auditor/Controller Office
 - Assessment Appeals Board
- Reviewed following Codes:
 - Revenue and Taxation Code sections 1601-1630, 4186-4337
 - California Government Code sections 27400-27401 and §24000 and §24009

- Reviewed Press Release “County assessment roll continues to increase at steady pace” dated 7/5/17
- Reviewed Solano County 2017 Annual Report
- Examined County Recommended Budget for Fiscal Year (FY) 2017/18
- Reviewed Auditors-Controller’s Audit Report of Treasurer-Tax Collector Records and Accounts for Property Tax Redemption dated 10/27/15
- Reviewed newspaper articles regarding assessment appeals
- Examined information on Solano County website for the following departments:
 - Assessor/Recorder Office
 - Treasurer/Tax Collector/County Clerk Office
 - Auditor/Controller Office
- Reviewed listing of Proposition 8 properties
- Examined Property Tax System at a Glance and Collection Processing Flowcharts
- Reviewed listing of Outstanding Assessment Appeals Board cases
- Reviewed listing of Parcels Sold at Tax Sale from 2013-2017
- Examined Redemptions Receivable by Parcel Report dated 7/10/17
- Reviewed 5-Pay Installment Plan Information and Report on current 5-Pay plans
- Performed testing on a sample of 5-Pay plan parcels
- Performed testing on sample of Certificate of Redemption files
- Reviewed Detailed Trial Balance General Ledger Reports for Fund 287 (Property Tax Impound)
- Reviewed Property Tax Default List
- Reviewed Unclaimed Property List
- Reviewed Waiver Agreement/Assessment Appeals Board
- Reviewed California Board of Equalization’s Assessment Appeals Manual
- Reviewed Local Rules of the Assessment Appeals Board of the County of Solano
- Reviewed agendas and minutes of the Assessment Appeals Board 2009-2017

IV. STATEMENT OF FACTS

A. Assessor

All county assessors in California are elected Constitutional officers whose actions are governed by the California Constitution, the laws passed by the Legislature, and rules adopted by the State Board of Equalization. In Solano County the Assessor/Recorder role was combined in 1992. The 2017 Solano County Annual Report indicated the total property tax assessment of all properties at \$52.1 billion.

The Assessor has the following responsibilities:

- Locate and identify the ownership of all taxable property within the county
- Establish a value for all real, personal and business properties that are subject to property taxation
- Administer all mandated and locally approved tax exemption programs
- Create and maintain an Assessment Mapping System

- Produce and deliver an Assessment Roll listing properties, owners and values by July 1st of each year

Grand Jury interviews and review of requested information/activity reports disclosed these responsibilities are being performed. Eligible properties are identified by using maps and photogrammetry and placed on the Assessment Roll. The Assessor's Office (AO) is confident that all properties are being captured via obtaining parcel numbers from map books coupled with owner grant deed recordings.

The combined staff of the Assessor/Recorder Office has fluctuated over the years. Before the downturn in property values in 2008-09 the department had a staff of about 65. Currently, the combined staff is 52 with 23 certified appraisers. The number of appraisers has remained relatively static over time. During the recession the department managed high re-assessment volume with the use of technology (mass appraisal software) on residential properties, which is still utilized today.

The County reports the recovering real estate market continues to fuel the decrease in the number of properties on Proposition 8 status. A total of 14,430 parcels remained on monitoring as of June 23, 2017. This is down from a peak of 78,000 in 2012.

When a residential property owner believes an assessment is incorrect, it's recommended they first discuss with AO by filing an Assessment Review Request. This step may avoid having to file a formal appeal to the County Assessment Appeals Board. The AO can:

1. Explain the property's assessed value
2. Answer any questions the owner may have about the assessment
3. Review any additional, pertinent information the owner may provide

If AO staff discovers an error or the owner qualifies for a temporary reduction under Proposition 8 the AO can reduce the property's assessed value. Since roll year 2015/16 to present the AO has received 592 review requests with 459 being single-family residences.

B. Tax Collector

The Solano County Tax Collector is an elected official mandated by Government Code sections 24000 and 24009. Sections 27400-27401 further describe the duties and responsibilities. In Solano County, the Divisions of the Treasurer, Tax Collector, and County Clerk are combined. The Tax Collector is responsible for preparing the property bills from the extended roll received from the Auditor-Controller. The bills are printed and mailed annually no later than October 31st and are due in two equal installments. The first installment is due November 1st and becomes delinquent December 10th. The second installment is due February 1st and becomes delinquent April 10th. Payments are collected and the funds deposited into the County Treasury. The Auditor-Controller allocates the property tax revenues to local taxing agencies, including the county, schools, cities, libraries, and special districts.

The Grand Jury reviewed the collection process flowchart and interviewed department personnel. Tax bills are sent to an off-site contractor for printing via electronic file using an encrypted file transfer protocol. The only bill printed onsite is the supplemental bill¹. A quality control review of 1 percent of all secured bills² printed are examined for accuracy.

Tax bills for 146,216 parcels were mailed out in FY 2016/17 that resulted in processing around 172,000 payments. Discussions indicated the County currently does not send bills out electronically. Staff indicated it is not restricted by code and can be allowed upon request. However, indication is the logistics are complicated and difficult to manage. Therefore, no opt-in procedure has been established. Issues include owners having numerous email addresses, changing addresses quite often and/or not monitoring the various email addresses on a regular basis.

Staff indicated they receive returned mail for about 2,000 bills each year (approximately 1.4 percent (%) of items mailed). No specific tracking of returns is performed for repeated items and no mail holds are placed. The returned mail is held for one year. The Assessor's Office is the only department that can update information on the tax roll. It is the property owner's responsibility to request the change. There are forms online for owners to submit a change of address. Files are updated if notification of a forwarding address is received from the United States Post Office.

County documents indicate 5% of all payments are processed at the front counter, 7% are processed online, 44% are processed through mortgage companies, and 44% are processed via the mail. Payment methods include: cash, checks, money orders, cashiers' checks, credit cards³, eCheck, debit cards, wire transfers from mortgage companies, and online banking. Automated Clearing House (ACH) entries are not in use. Payments that are returned due to non-sufficient funds (NSF) are routinely processed twice before a \$40 returned item fee is incurred. The fee is applied and due with the new payment.

If taxes are not paid by the delinquent date, a notice of default is sent. If they remain unpaid the property can be declared tax defaulted at the close of business on the last day of the fiscal year. These properties with amounts owed are transferred to the redemption roll. The property owner has the right to redeem the property by paying the taxes, penalties, and costs within five years of the date the property became tax defaulted. Owners can choose to pay the outstanding balances in full or in installments.

¹ "Supplemental" taxes are additional secured taxes that are due when property undergoes a change in ownership or new construction. This supplemental is in addition to the regular tax bill. The supplemental tax bill represents the tax due on the difference between the old and new values.

² "Secured" means taxes that are assessed against real property (real estate) – land and/or structures. The tax is a lien that is secured by the land/structure.

³ Credit cards or eChecks are accepted @SOLANOCOUNTY.COM. There is a convenience fee for the use of a credit card. The fee is charged by a third party to cover the merchant charges associated with providing the service. The County does not receive any revenue from this fee.

The Grand Jury performed transactional testing on a sample of 60 of the 232 Five-Pay Installment Plan redemption files for compliance to Revenue and Taxation Code (sections 4217, 4219 and 4221) associated with plan agreements on file and required payment amounts. The review revealed no exceptions to code requirements. Transactional testing for attributes relative to Revenue and Taxation Code section 4225 on a sample of 35 redemption certificates was also completed with no exceptions.

If residential property is not redeemed during the allowable period, the County can obtain the power to sell the property at public auction. In compliance with Revenue and Taxation Code section 3691, and at the direction of the Solano County Board of Supervisors the Solano County Treasurer-Tax Collector-County Clerk conducts sales of tax defaulted properties at least every four years. Sale dates are generally held in May and a possible re-offer in June each year via an online tax auction service. Successful tax sales of defaulted properties at auction resulted in the collection of approximately \$3.2 million in delinquent taxes from the period 2013-17.

Interviews with personnel from the tax collector's office disclosed they have a proactive plan to contact owners or parties of interest about a year before a tax sale. The intent is to get the taxes paid rather than sell the property. Action includes phone calls, site visits, signage on the property and hiring a firm to locate owners.

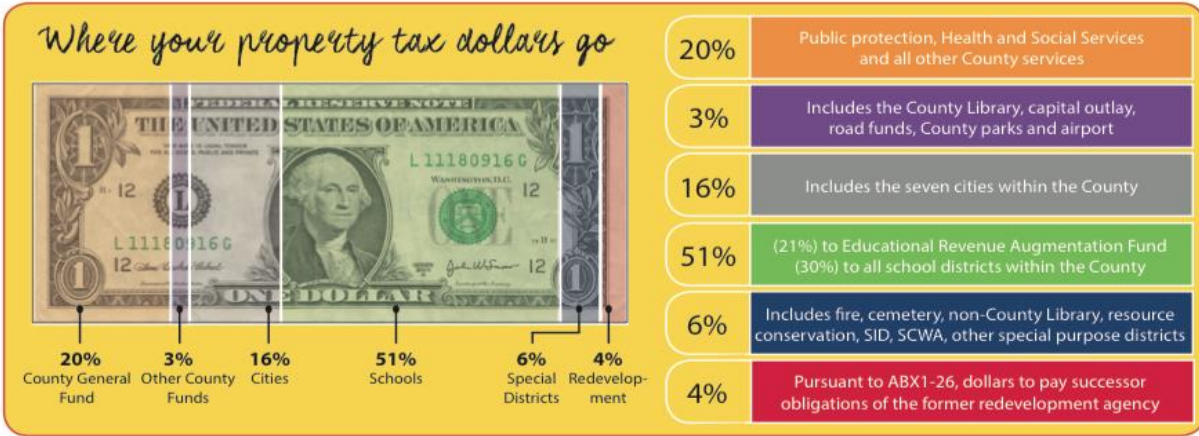
The minimum bid for a defaulted property is comprised of all delinquent taxes, auction fees, title search and costs. If sold over the minimum bid, the property owner can apply for excess proceeds of sale within 1 year. County counsel decides on distribution of excess proceeds. Distribution decisions can be turned over to the court for an interpleader⁴ agreement.

C. Auditor-Controller

The Auditor-Controller's Office (ACO) has a couple of roles in the property tax cycle. The first is to calculate the taxes and create the extended roll. The Assessor identifies ownership of all taxable properties within the County and establishes values for all real and personal property subject to taxation and applies exemptions. These processes create the assessment roll that is delivered to the ACO each year. The ACO applies the appropriate tax rate plus voter-approved or improvement bonds, service fees, and special assessments to determine the actual amount of property taxes owed. These processes create the extended roll that is turned over to the Tax Collector. The second is to allocate the property tax revenues to local taxing agencies, including the county, schools, cities, libraries, and special districts.

Below is a depiction of "*Where your property tax dollars go*" from the Solano County 2017 Annual Report.

⁴ The procedure when two parties are involved in a lawsuit over the right to collect a debt from a third party, who admits the money is owed but does not know which person to pay. The debtor deposits the funds with the court ("interpleads"), asks the court to dismiss him/her/it from the lawsuit, and lets the claimants fight over it in court.

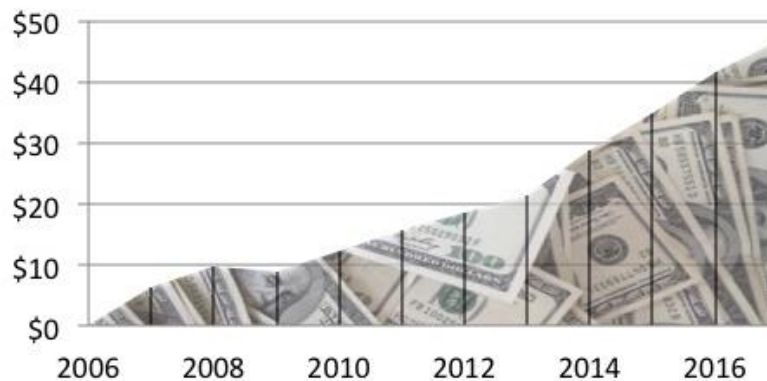


In 2006, the Auditor-Controller recognized a potential risk exposure associated with the settlement of large commercial assessment appeals. The County settled a commercial assessment appeal that resulted in an overpayment having to be returned. The ACO proposed withholding a portion of tax funds from entities with large pending assessment appeals to mitigate monetary risk. The Solano County Board of Supervisors approved this idea.

Impounding a portion of tax money related to large contested assessment appeals began in FY 2006-2007. The funds are impounded in an abundance of caution and to create some protection in the event of an adverse settlement.

The graph below reflects the Property Tax Impound Fund balances from 2006-2017.

Solano County Pending Tax Appeal Withholding in millions of dollars



Source: Solano County Auditor-Controller

D. Assessment Appeals Board

The Board of Supervisors of each California county serves as a Board of Equalization for locally assessed property to assure comparable valuation of property. Solano County has established an

Assessment Appeals Board (AAB) to perform this function for the Board of Supervisors. Property owners can appeal the assessed value of their property by filing an application for a change in tax assessment for properties on the tax roll.

The AAB's procedures for hearing and determining property tax appeals are governed by sections 1601-1630 of the Revenue and Taxation Code, the California Board of Equalization's Assessment Appeals Manual and AAB Local Rules adopted by the Solano County Board of Supervisors.

The AAB is composed of three community volunteer members, one of whom serves as the Chair, and two alternate members. Pursuant to section 1628 of the Revenue and Taxation Code, the Clerk of the Board of Supervisors serves as the clerk of the AAB. A Deputy County Counsel is assigned by the County Counsel to serve as a legal advisor to the AAB.

California law presumes that the Assessor has properly performed the Assessor's duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant present independent evidence relevant to the full value of the property. This has not occurred in the pending cases of prolonged assessment appeals.

Rule 9 of Local Rules of the AAB addresses the exchange of information between the applicant property owner and the Assessor. The applicant or the Assessor may file a written request with the Clerk within a specified time frame for an exchange of information. The request shall contain the basis of the requesting party's opinion of value and the following data: comparable sales data, income data and/or cost data supporting the opinion of the property value. If the request for exchange of data is filed timely, the other party shall mail a response on a timely basis. The response shall be supported with the same type of data required of the requesting party.

Rule 16 of The Local Rules of the AAB provides procedures for applications that do not relate to owner-occupied single-family residences. After review of selected applications by the AAB's Chair and legal counsel, the application may be designated as a "Complex Matter" under Rule 16. This rule establishes pre-hearing procedures intended to narrow and resolve novel issues and disputed facts.

The decisions of the Assessment Appeals Board are final and may not be appealed to another hearing body, but the applicant or the Assessor may seek judicial review of an AAB decision. Decisions of the county may only be appealed to Superior Court for: arbitrariness, lack of due process, abuse of discretion, failure to follow standards established by law, or for other specified reasons. Legal actions must be filed within six months after a claim for refund is denied by the AAB or Board of Supervisors. During the period of this review, 2009-2017, no party has sought judicial review of a Solano County AAB decision.

The Revenue & Taxation Code specifies an assessment appeal hearing must be held and a final determination made within two years of the timely filing of an application. The taxpayer and the Board may mutually agree in writing or on the record to an extension of time. The Board

delegates decisions concerning postponement to the Clerk. If the hearing is not held and a determination is not made within the time specified, the **applicant's opinion** of the value stated in the application shall be conclusively determined to be the basis upon which property taxes are to be levied with a limited number of exceptions. The difference between the tax roll assessed value and the applicant's opinion of the property value can, in the case of large commercial property, differ by hundreds of millions of dollars. Thus, if the hearing, postponement and continuance process is not followed correctly, the County is at risk of losing tens of millions of dollars in property tax revenue as has occurred in another California county.

Between 2009 and 2015, the AAB heard an average of over 500 assessment appeals per year from among the 146,216 properties on the current Solano County assessment roll. The total assessed value for all Solano County properties in 2017 is \$52 billion. Final determinations were reached by the AAB in all but a small number of cases within the two-year statutory timeframe. The table below indicates the outstanding property tax assessment appeals still pending.

Filing Year	Assessment Appeals Board Applications	Unresolved Applications	Assessor's Value of Unresolved Applications	Applicant's Values of Unresolved Applications
2009	943	3	\$59,167,426	\$29,000,000
2010	642	8	\$1,260,923,368	\$403,700,000
2011	618	6	\$470,826,382	\$231,700,000
2012	410	5	\$1,170,697,661	\$404,200,000
2013	584	5	\$1,065,189,342	\$388,700,000
2014	342	8	\$979,736,215	\$357,379,773
2015	226	8	\$1,192,906,467	\$508,509,721
Totals		43	\$6,199,446,861	\$2,323,189,494

Examination of the 43 largest Solano County assessment appeals for the period 2009 to 2015 shows a regular pattern and practice of filings by several large commercial property owners. Eight individual parcels were the subjects of repeated assessment appeals, three of which are listed as vacant land. Companies filing appeals can put down an amount that is not based on an appraisal – sometimes half and even a quarter of the assessor's value – but offer no supporting evidence. Although the Solano County Assessor and property owners with the largest dollar amounts of the appeals did agree to a methodology for a stipulated agreement for prior years' appeals, when that same stipulation was applied to future years some entities did not agree with the application of the methodology. The pattern of large, inadequately supported assessment appeals continues.

The difference between the assessor's property valuation and the commercial applicant's opinion of the value under appeal represents tens of millions of dollars of tax revenue. Solano County has a large potential monetary liability arising from the risk of an adverse judgement or procedural error in the appeals process. The Solano County pending tax appeal impound fund for the portion of the tax revenue that remains in dispute totaled \$46.6 million as of June 30, 2017.

Due to the monetary risk associated with unresolved appeals, Solano County in 2012 elected to hire an outside appraisal firm that is experienced in similar large commercial assessment appeals. In 2015, Solano County retained outside legal counsel to assist in defending these appeals at a cost of \$431,000 covering six assessment years 2004/05 through 2009/10. The county cannot recover the defense costs associated with these appeals.

E. Solano County Integrated Property System (SCIPS) Replacement Project

Solano County's property tax information management system was initially created in 1982. SCIPS is a database used for information management by the Assessor/Recorder, Auditor/Controller, and Tax Collector as well as providing public information. In keeping up with evolving technology, the system requires a major overhaul.

On April 4, 2017, the Board of Supervisors approved replacement of the SCIPS System and authorized the creation of a reserve for the project in the amount of \$10 million. The Solano County Department of Information Technology and the SCIPS stakeholders are working together to select a new database system. Implementation date for the new system is not scheduled at this writing. The vendor tentatively selected is presently installing a system at a county in Southern California. Solano County will continue to study and monitor the vendor's success in implementing this program successfully in the other California county.

Stakeholder expectations for the replacement system are high. The replacement systems should have more functionality and capability. End users are excited about its ability to be integrated and allow for relational data activity.

V. FINDINGS AND RECOMMENDATIONS

FINDING 1 – Assessment Appeals Board - The Solano County Grand Jury finds a regular pattern and practice of repeated assessment appeals initiated by a few large commercial property owners that extends for many years. This pattern has resulted in the County incurring significant defense costs and ongoing fiscal opportunity losses amounting to millions of dollars.

Recommendation 1a - Since the primary basis of the pattern of appeals is an annual claim that the value of their commercial property is but a fraction of the assessors' current and previously mutually agreed to valuations, the problem is evidentiary. The AAB's established rules and procedures be strictly applied to these cases in order to encourage a timely and rational resolution of valuation questions.

Recommendation 1b - The AAB take steps to expedite the assessment appeals process and limit the granting of waiver agreements under Rule 10 of the Local Rules. Similarly, written requests for postponements and continuances must show good cause for a postponement under Rule 25 of the Local Rules.

Recommendation 1c - The Board of Supervisors, County Counsel and Chair of the AAB take all available measures to obtain relief from the regular pattern of repeated, prolonged appeals that expose Solano County to unnecessary risk and potential financial loss.

FINDING 2 – Solano County Integrated Property System (SCIPS) Replacement Project - SCIPS is an aging application using unsupported, outdated software with limited technical resources. Platform updates are expensive and disruptive. A multiyear replacement project has been authorized and a \$10 million reserve fund created. The vendor product currently recommended by the stakeholders is not fully in production in California. Delay in replacing the current system puts the County at operational and financial risk due to the dwindling viability of SCIPS.

Recommendation 2 – County project team in the SCIPS replacement program continue to monitor the installation in Southern California. Based on results of that installation, the County’s options be revised if necessary. Upon final system selection, it is imperative for the Solano County stakeholders to work together closely to implement the installation, testing, security and training on a new integrated property system for end users.

REQUIRED RESPONSES

- Chair, Assessment Appeals Board (Finding 1)
- Board of Supervisors (Finding 1)
- County Assessor-Recorder (Finding 2)
- County Treasurer-Tax Collector-County Clerk (Finding 2)
- County Auditor-Controller (Finding 2)

COURTESY COPIES

- County Administrative Officer
- County Information Technology Officer