

Procedure for appealing  
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METRO RAIL BENEFIT ASSESSMENT APPEALS

Any property owner who believes his or her assessment is partially or entirely incorrect may petition the SCRTD Board to reduce, change or exclude his assessment. No change can be considered, however, until a petition is filed as described in the following sections.

Information

Petition forms and benefit assessment district maps are available from:

Southern California Rapid Transit District  
Planning Department  
Benefit Assessment Office, 5th Floor  
425 South Main Street  
Los Angeles, CA 90013

Completed petitions are filed with:

Southern California Rapid Transit District  
District Secretary, 2nd Floor  
425 South Main Street  
Los Angeles, CA 90013

For more information, please call the Benefit Assessment Office at (213) 237-2129 or 237-2125. Once the petition is filed, SCRTD staff will contact the petitioner to schedule a staff conference. There is no fee for filing a petition or for processing of appeals through the staff conference.

Examples of Benefit Assessment Appeals

The following examples describe some cases in which an appeals petition should be filed. These examples are intended only to help clarify grounds for appeal and are not intended to be exclusive or exhaustive.

o Exempt Property

Three types of property are exempt:

- residential
- publicly owned and used
- owned and used by a qualified non-profit organization

If a property is either owned or used by a non-exempt entity, it is not exempt. A qualified non-profit organization is one which is exempt from ad valorem taxation under Sections 202, 203, 206, 207, or 214 of the California Revenue and Taxation Code. If any property that falls into the above three categories is assessed, an appeals petition should be filed.

o Mixed Exempt/Non-Exempt Property

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If a property contains both exempt and non-exempt property, the assessment on the non-exempt part is calculated proportionally. Detailed instructions for calculating assessments on mixed-use property can be found in the brochure entitled "How to Calculate Metro Rail Benefit Assessments", available from the SCRTD Benefit Assessment Office. If a property owner believes an assessment for a mixed-use property is incorrect, an appeals petition should be filed.

o Residential/Apartment Hotels

Residential and apartment hotels are considered residential property, and therefore exempt, if the occupants are long-term residents who rent on a monthly or annual basis. Hotels that accommodate both long-term and short-term occupants are assessed proportionally as are other mixed-use properties. Incorrect assessments for residential/apartment hotels should be appealed.

o Size of Property or Building Incorrectly Billed

If the size of the property or building used to calculate the assessment appears to be incorrect, an appeals petition should be filed.

o Areas Vacant due to Building, Fire Safety or other Regulatory Codes

Building square footage that must be legally kept vacant because of public regulatory codes is not assessable. In the event that the entire building must be kept vacant, or if the portion that can be occupied is smaller than the size of the parcel, the parcel is assessed. Incorrect assessments for buildings with such vacancies should be appealed.

o Buildings which are less than 80% Efficient

Buildings in which less than 80% of the floor space can be rented due to atriums or other building design elements are considered inefficient, and their assessment is proportionally reduced. Details for calculating this reduction can be found in the brochure "How to Calculate Metro Rail Benefit Assessments" available from the SCRTD Benefit Assessment Office. If an inefficient building has been incorrectly assessed, an appeals petition should be filed.

o Property Located Outside Benefit Assessment Districts

Only property located within the boundaries of approved benefit assessment districts as shown on the official map of the District Secretary may be assessed (see attached map). If a property located outside this approved boundary is assessed, an appeals petition should be filed.

Duration of Assessment Reductions/Exclusions

Assessment reductions/exclusions are effective for varying lengths of time,

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depending upon various circumstances. Changes to an assessment made by the SCRTD Board of Directors based on this appeals process are:

Effective until property use changes:

- o Residential
- o Mixed exempt/non-exempt property

Effective until property use or ownership changes:

- o Public

Effective until structural modifications change the area of the buildings or parcel consolidation changes the size of the parcel:

- o Assessments changed to reflect correct parcel or building size
- o Buildings less than 80% efficient

Effective for one assessment year:

- o Vacancies due to regulatory code requirements
- o Residential and apartment hotels
- o Qualified non-profit
- o Improvements used for wholesale purposes

#### Appeals Procedures

The following Procedures for Appealing SCRTD Benefit Assessments as adopted by the SCRTD Board of Directors in July, 1985, and including amendments adopted by the Board through May 21, 1987, are presented in the following four chapters. This brochure supersedes the previous versions dated August, 1986 and January, 1987.

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## 1.0 INTRODUCTION

The Southern California Rapid Transit District (SCRTD) finds and declares that it is necessary and in the best interest of the SCRTD and those subject to Benefit Assessment to establish a benefit assessment appeals procedure so that any person who has been assessed will be afforded an opportunity to appeal the assessment and to satisfy the requirements of Section 33002.9 of the Public Utilities Code which allows any owner or owners of real property, which is, in whole or in part, within a benefit district to file with the Board a petition requesting that the real property owned by them be excluded from the benefit district on the ground that the real property sought to be excluded is not benefited or that the assessment be reduced on the ground that the assessment exceeds the benefit to that real property and Section 33001.5(e) of the Public Utilities Code which allows for changes in assessment to particular real property arising out of changes in parcel area or floor area of that real property. The Benefit Assessment Districts were established pursuant to Sections 33000 et seq. of the Public Utilities Code and to the SCRTD Resolution to Proceed with the Establishment of the Benefit Assessment Districts, which was approved by the SCRTD Board of Directors on February 14, 1985. The Benefit Assessment Districts were created pursuant to the SCRTD Resolution Creating Special Benefit Assessment Districts A1 and A2 for the MOS-1 Segment of the Metro Rail System, which was adopted by the SCRTD Board of Directors on July 11, 1985.

## 2.0 DEFINITIONS

The following are definitions of words used in the appeals procedure:

Apartment hotel/residential hotel -- A residential improvement where a portion or all of the occupants are long-term (e.g., monthly, yearly) residents.

Appeals Panel -- A panel of three Hearing Officers, who must be retired Appellate or Superior Court judges.

Assessment -- The amount determined by multiplying the applicable rate times the number of square feet of assessable property.

Assessable improvement -- An improvement in use as office; commercial; retail; hotel or motel.

Assessable parcel -- Any parcel except one used for the following purposes:

- (a) In use for residential purposes, except hotel and motel;
- (b) Owned by the public and in public use (if the property is either not owned by the public or not in public use, the property is not exempt unless otherwise provided herein).
- (c) Owned by a qualified non-profit organization, and in use by a qualified non-profit organization (if the property is either not owned by a qualified non-profit organization or not used by a

qualified non-profit organization, the property is not exempt unless otherwise provided herein). A qualified nonprofit organization shall be one whose property is exempt from ad valorem taxation under Sections 202, 203, 206, 207, or 214 of the California Revenue and Taxation Code.

Assessable property -- Any assessable parcel, or assessable improvement.

Assessable use -- See uses described under "Assessable improvement" and "Assessable parcel."

Commercial use -- Use of property to engage in commerce, trade or a profession. A sample list of commercial uses is set forth in attachment A hereto. The list is not intended to be exclusive.

Exempt use -- Any use which is not assessable.

Gross square footage -- The length of the improvement multiplied by its width multiplied by the number of stories and adjusted for irregular shapes, internal open-air courtyards, and multi-floor atriums. If the ground floor of the atrium or open space is used as an assessable use, then that portion of the space is assessable.

Hotel/motel use -- Use as a residential improvement which is designed or used for or containing six or more guest rooms or suites of rooms where the occupants are short-term residents.

Improvement -- A building, structure, fixture, or possessory interest therein.

Non-profit organization -- A qualified nonprofit organization shall be one whose property is exempt from ad valorem taxation under Sections 202, 203, 206, 207, or 214 of the California Revenue and Taxation Code.

Office use -- Use of property to transact business or provide service.

Parcel -- Any portion, piece or division of land, or possessory interest therein.

Petitioner (owner) -- Any owner or owners of real property which is, in whole or in part, within the benefit district, or their legal representatives. The Petitioner must have ownership or direct economic interest in the property subject to the petition or have a direct interest in the payment of assessment on such property. Owners may include singular or common ownership, partnerships or corporations.

Property -- A parcel and/or improvement.

Public ownership -- Ownership of parcel or improvement by any federal, state, local governmental entity or agency thereof.

Public use -- Use of any parcel or improvement used for federal, state or local governmental purposes.

Rentable Area -- The rentable area of a floor shall be computed by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor. No deductions shall be made for columns and projections necessary to the building.

Retail use -- Use of property for the sale of commodities or goods to consumers.

Stipulate -- To make an agreement or covenant to do or forbear something.

Use -- The legal enjoyment of property, consisting of its employment or occupation for the user's or occupier's purpose.

### 3.0 TYPES OF APPEALS

#### 3.1 STATUTORY AUTHORITY

An assessment may be appealed for the reasons set forth in and pursuant to Sections 33002.9 through 33002.14, inclusive, of the Public Utilities Code, which provides:

"33002.9 (a) Any owner or owners of real property, which is, in whole or in part, within the benefit district, or their legal representatives, may jointly or severally file with the board a petition requesting that the real property owned by them or for which they are the legal representative be excluded from the benefit district on the ground that the real property sought to be excluded is not benefited or that the assessment be reduced on the ground that the assessment exceeds the benefit to that real property.

(b) The real property sought to be excluded or upon which the assessment is sought to be reduced shall be described by its legal description and shall be accompanied by a map depicting its location in relation to the benefit district.

(c) The petition shall contain a statement of facts in support of the petition and shall be acknowledged by the owner or the legal representative filing the petition.

33002.10 Notice of each hearing upon the petition for exclusion or reduction shall be given in accordance with subdivisions (d) and (e) of Section 33001.

33002.11 At the time and place provided in the notice or at any time and place to which the hearing is adjourned, the board or its appointed Hearing Officer shall hear all the following:

(a) The petition for exclusion or reduction.

(b) All evidence or proofs that may be introduced by or on behalf of the petitioners.

(c) All objections to the petition that may be presented in writing by any person, including the district.

(d) All evidence or proofs that may be introduced in support of objections to the petition.

33002.12 The expenses of giving the notice provided for herein and of the hearing on the exclusion or reduction petition shall be paid by the persons filing the petition.

33002.13 Upon the hearing on an exclusion or reduction petition by the board, or upon the record of hearing by a Hearing Officer, the board shall order the petition be denied when the petitioner has not shown by a preponderance of the evidence that in an exclusion petition his or her property is not benefited or in a reduction petition that the assessment exceeds the benefit to the property.

33002.14 The board, after the hearing on an exclusion or reduction petition, shall order one of the following by resolution:

(a) In the case of an exclusion petition, order the exclusion of all or any part of the real property described in the petition upon its finding that the property will not be benefited by the operations of the district in the vicinity of the benefit district.

(b) In the case of a reduction petition, order a change in the benefit assessment to all or any portion of the real property described in the petition to provide that it not exceed the amount of benefit derived by the operations of the district in the vicinity of the benefit district.

(c) Confirm the assessment on the real property subject to the petition as correctly reflecting the amount of benefit to the real property."

Changes to individual assessments may also be made pursuant to Section 33001.5(e) of the Public Utilities Code, which provides:

"33001.5(e) The board may provide in the resolution, or in a later resolution adopted by a two-thirds vote of the members of the board, for changes in the assessment to particular real property within the benefit district or any zone therein arising out of changes in the parcel area or floor area of that real property."

The appeal may be based on any issue provided for in the code. The following sections list several types of appeals. The list is compiled as guidance only, and is not intended to be exclusive or exhaustive.

### 3.2 ASSESSMENT OF EXEMPT PROPERTY

If a property is used in an exempt use, the property owner may petition to have the assessment rescinded, or, if the property is exempt in part, to

have the assessment reduced. Improvements used for other than office, commercial, retail, hotel or motel are not assessed. However, parcels which are vacant or developed with exempt improvements, except those listed as exceptions under the definition in Chapter 2 for assessable parcel, are assessed. If the use of the improvement is exempt, but the parcel is not, the property owner may petition to have the assessment reduced to the amount of the parcel assessment.

### 3.3 ASSESSMENT OF RESIDENTIAL HOTEL/APARTMENT HOTEL

Residential hotels/apartment hotels are treated as residential use (exempt) if the occupants are long-term residents (e.g., have monthly or yearly leases or rental agreements). For hotels that contain both long-term and short-term residents, the assessment shall be determined on the basis of the percent of the hotel that is assessable multiplied by either the square footage of the parcel or the total square footage of the improvement, whichever is greater.

### 3.4 ASSESSMENT OF PROPERTY WHICH CONTAINS A MIX OF EXEMPT AND ASSESSABLE IMPROVEMENTS

For properties that contain assessable improvements in combination with exempt improvements which are listed in Chapter 2 under the definition of assessable parcel, the assessment shall be determined on the basis of the percent of the improvement that is assessable multiplied by either the square footage of the parcel or the total square footage of the improvement, whichever is greater for a given property. For properties that contain assessable improvements in combination with exempt uses that are not listed as exceptions in Chapter 2 under the definition for assessable parcel (e.g., industrial uses), the assessment shall be determined on the basis of the assessable square footage of the improvement or the square footage of the parcel, whichever is greater for a given property.

### 3.5 ASSESSMENT OF INCORRECT SQUARE FOOTAGE OF PROPERTY OR IMPROVEMENTS

The gross square footage of an improvement is calculated by using the outside dimensions of the improvement. The length of the improvement is multiplied by its width multiplied by number of stories and adjusted for irregular shapes, internal open-air courtyards and multi-floor atriums. If the ground floor of the atrium or open space is used as an assessable use, then that portion of the space is assessable. The gross square footage of a parcel is determined by multiplying the length by the width adjusted for irregular shapes.

### 3.6 ASSESSMENT OF FLOOR AREAS THAT ARE VACANT BECAUSE OF THE REQUIREMENTS OF BUILDING, FIRE, SAFETY OR OTHER REGULATORY CODES

The SCRTD Board finds and declares that an improvement that must be legally kept vacant because of the requirements of building, fire, safety or other public regulatory codes is not benefited and is therefore not assessable. For example, the floor area calculation for an improvement will be adjusted to delete such floor area for a owner who has received a B&S CONS-58

(R2-82) Earthquake Hazard Order from the Los Angeles Department of Building and Safety. The adjustment will exclude from assessment unoccupied floor area in a qualified improvement and will be effective until compliance with the Earthquake Hazard Order is achieved. If the entire improvement cannot be occupied or the square footage that can be occupied is less than the square footage of the parcel, then the parcel will be assessed.

### 3.7 ASSESSMENT OF A BUILDING THAT IS LESS THAN 80% EFFICIENT

The SCRTD Board finds and declares that an improvement which is less than 80% efficient is benefited less than an improvement which is 80% or more. If an improvement is 80% or more efficient, the assessment is based on total gross square footage. To determine the efficiency of an improvement, the area of the improvement that is not rentable is divided by the gross square footage of the improvement and expressed as a percentage of the gross square footage. This figure is then subtracted from 100% to yield the efficiency of the improvement. If the efficiency is less than 80%, the square footage of the improvement is adjusted downward by a factor determined by using the formula  $(80-X)/80$  where X is equal to the efficiency of the improvement. For example, if an improvement is 60% efficient, the square footage would be adjusted downward by a factor of  $20/80$  or  $1/4$ . If the remaining square footage is lower than the square footage of the parcel, then the parcel is assessed.

### 3.8 ASSESSED PROPERTY IS NOT LOCATED IN THE BENEFIT ASSESSMENT DISTRICT

Only property located within the approved boundaries of the benefit assessment Districts as shown on the official map located in the office of the SCRTD Board Secretary is assessable.

### 3.9 DURATION OF EXEMPTION

The SCRTD Board finds that:

1. If the property is used for exempt residential purposes, the property shall be declared exempt and shall remain exempt until the use of the property changes.
2. If the property is publicly owned and publicly used, the property shall be declared exempt and shall remain exempt until the property changes use or ownership.
3. If the property is owned by a qualified non-profit organization and used by a qualified non-profit organization, the exemption will be in effect for one year, and the property owner will be required to demonstrate an exempt status on an annual basis to remain exempt from assessments.
4. If the property is used as residential/apartment hotel the exemption will be in effect for one assessment year, and the property owner will be required to renew the exemption on an annual basis. The determination of whether or not the property is exempt will be based on the use of the improvements for the previous 12 months. Failure to renew the exemption will result in

assessment.

5. The exemption of floor area from assessment because of the requirements of building, fire, safety or other regulatory codes shall be effective for one assessment year and must be renewed on an annual basis. Failure to renew the exemption will result in assessment.
6. If property is used for a mix of exempt and assessable improvements the portion of the property declared exempt shall remain exempt until the use of the property changes.
7. If the gross square footage of the property is found to be incorrect, the corrected square footage shall remain in effect until changes are made to the structure which change the amount of the square footage.
8. If a building is found to be less than 80% efficient, the revised square footage will remain in effect until changes are made to the structure which change the amount of the square footage or efficiency.
9. If it is determined that property is not located within the Benefit Assessment District, the property would not be assessed unless the boundaries of the Benefit Assessment District are changed.

#### 4.0 APPEAL PROCEDURE

##### 4.1 PETITION

No reduction in or recision of an assessment sought by an owner of property within the Benefit Assessment District shall be made unless a petition, meeting the requirements of Section 33002.9 of the Public Utilities Code and the SCRTD Administrative Procedures is filed with the SCRTD Board, to the attention of the District Secretary, 425 South Main Street, Los Angeles, California 90013-1393. A separate petition must be filed for each parcel which is issued a separate Joint Consolidated Tax Bill.

The following procedure shall be followed:

1. If the petition is made by a representative of the owner other than an attorney licensed to practice law in California, written authorization from the owner to so act must be filed with the petition. If the petitioner is a partnership, the petition must be accompanied by either a certificate executed by the partners authorizing the representative to act on behalf of the partnership or a copy of the partnership agreement. If the petitioner is a corporation, the petition must be accompanied by either a resolution of the board of directors authorizing the representative to act on behalf of the corporation or a copy of corporate regulations, by-laws or similar documentation which establishes that the representative is a duly authorized official

of the corporation. Reference to owner herein shall include owner's representative and each shall be referred to as petitioner.

2. The petition shall be in writing signed by the petitioner with a declaration under penalty of perjury that the statements made in the application are true.
3. The SCRTD shall provide, free of charge, forms on which petitions are to be made. The completed petition shall include:
  - a. The name and address of the petitioner;
  - b. The name and address of the petitioner's representative, if any;
  - c. A legal description of the property (map book, page and parcel number) accompanied by a map depicting its location in relation to the benefit assessment district;
  - d. A statement of whether the petitioner seeks to: (1) exclude the property from the benefit assessment district on the ground that the property is not benefited, (2) reduce the assessment on the ground that the assessment exceeds the benefit of the property or (3) change the assessment on the basis of changes in the parcel area or floor area of the property. Within these broad categories, grounds for appeal shall be listed on the petition form. The petitioner shall indicate those which are relevant to the particular property;
  - e. A statement of facts in support of the petition. A petition which does not contain the foregoing items is invalid and shall not be acted upon by the SCRTD Board. Notice that a petition is invalid shall be given by the SCRTD to the petitioner. A single petition submitted for multiple parcels is valid only for the first parcel listed on the petition, and invalid for the remaining parcels. SCRTD will give notice to the petitioner that additional petitions must be submitted for the remaining parcels.
4. Upon receipt of the petition, the District Secretary shall record the receipt upon a docket kept to record the receipt of petitions received pursuant to Sections 33001.5(e) or 33002.9 of the Public Utilities Code. The petition will be forwarded to the SCRTD Benefit Assessment Office for review. Staff will schedule a staff conference with the petitioner as required. Petitions will be processed in the order in which they are received by the District Secretary, except as otherwise provided for in this document.

#### 4.2 PRE-PETITION CONFERENCE

On February 12, 1987, the SCRTD Board of Directors eliminated the \$50 filing fee for appeals petitions. Consequently, the no-fee pre-petition conference has been abolished.

#### 4.3 STAFF CONFERENCE

A staff conference represents the first step of the appeals process. Staff will contact the petitioner to schedule a staff conference. Staff conferences will be conducted in accordance with the procedures outlined in Section 4.7 of this document.

#### 4.4 TIME LIMIT FOR FILING PETITION

All petitions for appeal of an assessment for a given tax/assessment year must be filed before the end of the tax/assessment year for which the assessment is levied.

#### 4.5 FILING FEE FOR APPEALS PETITION

On February 12, 1987, the SCRTD Board of Directors eliminated all fees for filing benefit assessment appeals and for processing of cases through the staff conference level.

If the case is not settled at the staff level and is advanced to the Hearing Officer, the petitioner will pay the additional cost of hearing notices, a Hearing Officer, court reporter and associated administrative costs of the hearing as required by law. An initial deposit of \$1,000 is required for cases to be heard by a Hearing Officer. Any remaining deposited funds, above those required to pay the cost of notices and the Hearing Officer, will be refunded to the petitioner. Should the cost exceed \$1,000, the petitioner must pay the difference.

Section 33002.12 of the California Public Utilities Code states:

"The expenses of giving notice provided herein and of the hearing on the exclusion or reduction petition shall be paid by the persons filing the Petition."

#### 4.6 HEARING OFFICERS

A panel of benefit assessment hearing officers shall be appointed by the SCRTD Board. Each Hearing Officer shall be a retired Appellate or Superior Court judge, shall have been admitted to practice law in California for at least five years immediately preceding his/her appointment and shall have demonstrated knowledge in tax appeals, assessment appeals or other related subject matters.

#### 4.7 GUIDELINES FOR CONDUCTING STAFF CONFERENCES

Upon receipt of the petition by the SCRTD staff, the petitioner will be contacted to arrange a staff conference. The following sections outline the procedures to be followed regarding staff conferences between the petitioner and the SCRTD staff.

#### 4.7.1 GENERAL

1. A staff conference will be held between the petitioner and a member of the SCRTD staff designated to participate in such conferences. Each party shall be prepared to discuss the issues contained in the application and to make appropriate stipulations.
2. The date of the staff conference shall be set by SCRTD staff. Written confirmation of the date and time of the staff conference shall be given at least 20 days prior to the conference. The 20-day period may be waived if agreed to by all of the parties.
3. All petitions filed by an individual petitioner may be processed together at a staff conference, provided that the petitions are on file at the time the staff conference is scheduled.
4. If petitioners agree, multiple petitions may be processed together at a staff conference, even if filed by different property owners, in cases where issues raised in the petitions are sufficiently similar to allow them to be reasonably dealt with as a group. This determination will be made by SCRTD staff prior to scheduling the staff conference.
5. Processing of multiple petitions meeting the above criteria must commence at the staff conference level in all cases. Once a staff conference to hear multiple petitions has been scheduled, those petitions may continue through the remainder of the appeals process described in the following sections as a group, although any petitioner may choose at any time to discontinue the association of his/her petition with the group. Additional petitions may not be added to the group once the staff conference has been scheduled.

#### 4.7.2 PRE-PETITION CONFERENCES

On February 12, 1987, the SCRTD Board of Directors eliminated the filing fee for benefit assessment appeals petitions and consequently the need for the no-fee pre-petition conference. The guidelines for conducting pre-petition conferences are no longer applicable.

#### 4.7.3 STAFF CONFERENCES

1. All issues raised in the petition will be discussed at the staff conference with the objective of reaching agreement on the issues and/or identifying further information for evaluation. The petitioner will be provided the fullest opportunity to present evidence in support of the petition. The petitioner may also raise additional issues pertaining to the petition during the staff conference.
2. If the parties at a staff conference are unable to resolve all of the issues raised in the petition they may identify such other matters as will aid in the resolution of the issues and continue the conference to a date and time not exceeding 30 days from the date of the present conference.

3. If the parties stipulate to the disposition of any or all issues raised in the petition in the staff conference, the SCRTD staff shall draft a proposed stipulation. The stipulations will be sent to the petitioner within 14 days after the final staff conference. Within 10 days after the mailing of the proposed stipulations, the petitioner shall file, if desired, with the SCRTD Benefit Assessment Office, in care of the assigned staff member, any proposed amendment to the stipulation.
4. If the petitioner fails to respond within the 10-day period, it shall be conclusively presumed that the petitioner agrees to the stipulation as written, and the staff will submit the stipulation to the SCRTD Board for approval with the notation in its transmittal that it was accepted by the Petitioner by its action in not responding or objecting to the proposed stipulation.
5. If the petitioner refuses to stipulate to any issue contained in the proposed stipulation, the proposed stipulation shall be changed to show the issue as one to be resolved.

#### 4.7.4 PROCESSING OF STIPULATIONS

1. Any proposed stipulation reached between the SCRTD staff and the petitioner at or after a staff conference will be reviewed by the SCRTD General Manager and the SCRTD General Counsel to assure that any proposed stipulation made meets the requirements of the law. If the General Manager or General Counsel does not approve the stipulation, the SCRTD staff and petitioner will conduct further negotiations, as appropriate, to reach a proposed stipulation acceptable to both parties.
2. When the proposed stipulation is satisfactory to both parties and approved by the General Counsel and General Manager, it shall be submitted to the Board. The Board shall consider the proposed stipulations at a regular or special Board meeting, and shall provide notice of the meeting as follows:
  - a. for changes to assessments based on changes in the parcel area or floor area of the property (PUC Section 33001.5(e)), the Board shall provide 10 days notice to the petitioner and SCRTD, unless waived by both parties.
  - b. for exclusion of property on the ground that it is not benefited or reduction of assessment on the ground that the assessment exceeds the benefit to the property (PUC Section 33002.9), the notice stating the time and place of the meeting shall be published prior to the time fixed for the meeting pursuant to Section 6066 of the Government Code. Notice shall also be mailed at least 30 days prior to the hearing to all owners of real property within the boundaries of the benefit district whose names and addresses appear on the last equalized assessment roll or are otherwise known to the Board of Supervisors of the County of Los Angeles or to the District. This notice may be waived if the petition has previously been heard by a Hearing Officer and notice was previously given as described in Section 4.8 below. If the Board of Directors considers proposed

stipulations under the provisions of this sub-section for a petition which has not been heard by a Hearing Officer, the expenses of giving the notice required by this sub-section will be paid by the District.

3. At any Board meeting for which proper notice has been given the Board may, by two-thirds vote of the members of the Board, approve, reject or propose amendments to stipulations which change assessments based on changes in the parcel area or floor area of the property. The stipulation as finally agreed to by both parties, including any amendments added at the Board meeting and agreed to by the petitioner, shall be binding upon both parties as to all issues stipulated to.
4. At any Board meeting for which proper notice has been given the Board may, by two-thirds vote of the members of the Board, approve, reject or propose amendments to stipulations which exclude property on the basis that it is not benefited, or reduce assessments on the basis that the assessment exceeds the benefit to the property. The stipulation as finally agreed to by both parties, including any amendments added at the Board meeting and agreed to by the petitioner, shall be binding upon both parties as to all issues stipulated to.
5. The stipulation, after approval by the Board, shall become part of the record in the case and, if a hearing before a Hearing Officer as to any remaining issues is requested, it shall be submitted to the Hearing Officer. The issues stipulated to shall be deemed resolved and the Hearing Officer may not reconsider any such stipulated issue or hear evidence on such issue.

#### 4.7.5 REQUEST FOR HEARING OFFICER

1. At the Board meeting at which the stipulations are considered or within 10 days thereafter, the petitioner may request a hearing before a Hearing Officer to be designated by the Board. The Board shall then designate a Hearing Officer to hear evidence on, and make recommendations to the Board, as to all unresolved issues. If the petitioner fails at the Board meeting at which the stipulations are considered, or in writing within 10 days thereafter, to request a Hearing Officer to hear all unresolved issues, those issues shall be deemed waived, and the assessment shall be in accordance with the original assessment as modified by the stipulation covering the issues which were resolved.
2. If no issues are resolved at the staff conference, the petitioner shall be so notified within 14 days after the staff conference. The petitioner may request in writing, a hearing before a Hearing Officer designated by the Board within 10 days of the date of the letter providing such notification. If the petitioner fails to request that a Hearing Officer hear the petition within the 10-day period, the assessment shall be in accordance with the original assessment.
3. A request for hearing before a Hearing Officer (which is submitted within 10 days after the Board meeting at which stipulations are considered or within 10 days of the notification that no issues were

resolved at the staff conference) will be considered by the Board at the first meeting which is more than one week after receipt of the request.

4. The Board shall designate the Hearing Officer by randomly selecting two names from the group of names comprised of retired judges under contract with the District to serve as Hearing Officers and confirming the names drawn by two-thirds vote of the members of the Board. If the judge whose name is drawn first is unavailable or unable to hear the appeal, the judge whose name is drawn second will be asked to serve.

#### 4.8 NOTICE OF HEARING BEFORE A BENEFIT ASSESSMENT HEARING OFFICER

1. After the SCRTD Board grants a hearing for reduction or rescission of an assessment before a Hearing Officer, the Hearing Officer shall set the matter for hearing. The SCRTD Staff shall notify the petitioner in writing by personal delivery or by depositing the notice in the U.S. Mail directed to the petitioner at the address given in the petition or directed to the latest available address of the petitioner. The notice shall designate the date, time and place of the hearing. It shall also state that the Hearing Officer shall hear all of the following.
  - (a) The petition for exclusion or reduction.
  - (b) All evidence or proofs that may be introduced by or on behalf of the petitioners.
  - (c) All objections to the petition that may be presented in writing by any person, including the district.
  - (d) All evidence or proofs that may be introduced in support of objections to the petition.  
(Pursuant to PUC 33002.11)
2. Pursuant to PUC Section 33002.10, the notice stating the time and place of the hearing shall be published prior to the time fixed for the hearing pursuant to Section 6066 of the Government Code. Notice shall also be mailed at least 30 days prior to the hearing to all owners of real property within the boundaries of the benefit district whose names and addresses appear on the last equalized assessment roll or are otherwise known to the Board of Supervisors of the County of Los Angeles or to the District. Pursuant to PUC Section 33002.12, the expenses of giving the notice as described above shall be paid by the persons filing the petition.
3. Multiple petitions meeting the criteria of Section 4.7.1 above which have been processed as a group at the staff conference may be heard by a Hearing Officer at a single hearing. In such cases, only one \$1,000 deposit will be required, the cost of which may be shared by all petitioners. A single hearing notice shall be sent. Where petitions do not meet the criteria, a separate deposit must be provided and separate notice must be given.

4. The notice described above shall also contain a procedure whereby the property owner receiving the notice may request to be included on a mailing list which will keep the property owner informed of future proceedings regarding this petition or group of petitions. In addition, at the hearing, a sign-up list will be provided whereby any interested party may request to be included on the mailing list. Separate notice of additional proceedings (including, but not limited to, any continuation of the hearing, hearing before the Appeals Panel or Board meetings where the petition is heard) will be provided to property owners and other interested parties who have requested to be included on the mailing list.
5. Hearing officers and staff members assigned to hear benefit assessment appeals shall be governed by the "Conflict of Interest Regulations for Benefit Assessment District Hearing Officers and District Staff Members Hearing Benefit Assessment Appeals", adopted by the Board of Directors on March 12, 1987. These regulations are contained in Attachment B.

#### 4.9 LEGAL COUNSEL

Any party may be represented by legal counsel.

#### 4.10 APPEARANCE BY PETITIONER

The petitioner must be represented at the hearing.

##### 4.10.1 PROPERTY IN COMMON OWNERSHIP

If the property is held in joint or common ownership or in co-ownership, the appearance of the representative designated in the Petition or of counsel on behalf of the designated representative shall constitute a sufficient appearance.

##### 4.10.2 APPEARANCE BY CORPORATION

A corporation may be represented by any officer duly authorized in the petition, or by counsel of the designated representative.

##### 4.10.3 APPEARANCE BY AN INDIVIDUAL

An individual may be represented by an attorney or any person duly authorized in writing to act on his or her behalf in the petition or by separate written acknowledgment.

#### 4.11 BURDEN OF PROOF

The burden of proof to show that the property has been incorrectly assessed is on the petitioner.

#### 4.12 CONTINUANCE

The Hearing Officer may continue a hearing to a later date for good cause. If the hearing is continued, the Hearing Officer shall inform the parties of the time and place of such further hearing and no further notice thereof

need be given except as provided for in Section 4.8. A hearing may also be continued by stipulation which is subject to concurrence of the Hearing Officer. The date to which the hearing is continued shall be set to allow for reasonable time for SCRTD to inform other interested parties of the continuance.

#### 4.13 DISCOVERY: RIGHTS AND PROCEDURES

A party, upon written request made to another party at least 20 days prior to the hearing, is entitled to:

1. Obtain the names and addresses of witnesses to the extent known to the other party, including but not limited to, those intended to be called to testify at the hearing.
2. Inspect and make a copy of any of the following in the possession or custody or under the control of the other party:
  - (a) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;
  - (b) Statements of witnesses then proposed to be called by the party;
  - (c) All writings which the party then proposes to offer in evidence;
  - (d) Any other writing or thing which is relevant and which would be admissible in evidence;
  - (e) Investigative reports made by or on behalf of the SCRTD or other party pertaining to the subject matter of the proceeding.

By notifying the other parties of its intention to call a specific witness or introduce a specific exhibit, or by furnishing to other parties a copy of a specific exhibit, a party is not bound to call such a person as a witness or to introduce such exhibit at the hearing nor does such notification or furnishing make such evidence admissible at the hearing.

For the purpose of this section, "statements" include written statements by the persons signed or otherwise authenticated by him/her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of such oral statements.

Responses to timely requests made hereunder shall be made within 10 days after the date of the request. Failure of the responding party to respond to any valid request hereunder will entitle the requesting party, at the discretion of the Hearing Officer, to:

1. A stay of the administrative proceeding in order to obtain a judicial remedy;

2. A continuance of the hearing to extend the time to provide the information;
3. A finding in favor of the requesting party on any issue the proof of which is shown to be substantially affected by the failure to provide the requested information; or
4. Dismissal of the appeal.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

#### 4.14 DISCOVERY: JUDICIAL REMEDY

Any party adversely affected by the failure of a responding party to comply with a valid discovery request may serve and file a verified petition to compel discovery in the Superior Court for Los Angeles County naming as respondent the party refusing to comply with the Section 4.13 DISCOVERY: RIGHTS AND PROCEDURE. The petition shall state facts showing the responding party (respondent) failed or refused to comply with the request for discovery, a description of matters sought to be discovered, the reason or reasons why such matter is discoverable under Section 4.13, and the ground or grounds of respondent's refusal so far as is known to petitioner.

The petition shall be served upon respondent party and filed within 30 days after expiration of the time limit for the other party to reply to the request, or any written extension thereof. No petition may be filed within 15 days of the date set for commencement of the administrative hearing except upon order of the court after motion and notice and for good cause shown. In acting upon such motion, the court shall consider the necessity and reasons for such discovery, the diligence or lack of diligence of the moving party, whether the granting of the motion will delay the commencement of the administrative hearing on the date set, and the possible prejudice of such action to any party.

If from a reading for the petition the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent party; otherwise the court shall deny the petition. The order to show cause shall be served upon the respondent or his attorney of record in the administrative proceeding by personal delivery or certified mail and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent party shall have the right to serve and file a written answer or other response to the petition and order to show cause.

The court may in its discretion order the administrative proceeding stayed during the pendency of the proceeding, and if necessary for a reasonable time thereafter to afford the parties time to comply with the court order.

Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that such matter is not a discoverable matter, or is privileged against disclosure under such provisions, the court may order lodged with it such matters as are provided

in subdivision (b) of Section 915 of the Evidence Code and examine such matters in accordance with provisions thereof.

The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and such oral argument and additional evidence as the court may allow.

Unless otherwise stipulated by the parties, the court shall no later than 30 days after the filing of the petition file its order denying or granting the petition, provided, however, the court may on its own motion for good cause extend such time an additional 30 days. The order of the court shall be in writing setting forth the matters or parts thereof the petitioner is entitled to discover under Section 4.13. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, such order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

The order of the Superior Court shall be final, and not subject to review by appeal. A party aggrieved by such order, or any part thereof, may within 15 days after the service of the Superior Court's order serve and file in the district court of appeal for the district in which the Superior Court is located, a petition for a writ of mandamus to compel the Superior Court to set aside or otherwise modify its order. Where such review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus, provided, however, the court of appeal may dissolve or modify the stay thereafter if it is in the public interest to do so. Where such review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

Where the Superior Court finds that the party or his attorney, without substantial justification, failed or refused to comply with Section 4.13 or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this section shall limit the power of the Superior Court to compel obedience to its orders by contempt proceedings.

#### 4.15 RULES OF EVIDENCE

These rules apply for hearings before the Hearing Officer. Oral evidence shall be taken only on oath or affirmation. ..

Each party shall have these rights:

1. to call and examine witnesses on any matter relevant to issues to be decided in the proceeding;
2. to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not

covered in the direct examination;

3. to impeach any witness regardless of which party first called him or her to testify;
4. to rebut the evidence against him or her.

If any party does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and evidence irrelevant to the issues to be decided in the proceeding, and unduly repetitious evidence shall be excluded.

Documentary evidence may be received in the form of copies or excerpts, if the original or a duplicate original is not readily available. Upon request, parties shall be given an opportunity to compare the copy to the original or duplicate original.

Notice may be taken of judicially cognizable facts by the Hearing Officer. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties may be notified either before or during the hearing, or by reference in preliminary findings or otherwise of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

#### 4.15.1 EVIDENCE BY AFFIDAVIT

At any time 10 or more days prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit that he or she proposes to introduce in evidence, together with a notice as provided below. Unless the opposing party, within seven days after such mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after request therefor is made as herein provided, the affidavit may in the discretion of the Hearing Officer be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

The notice referred to above shall be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be

introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question him/her unless you notify (here insert name of proponent or his/her attorney) at (here insert address) that you wish to cross-examine him/her. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) on or before (here insert a date seven days after the date of mailing or delivering the affidavit to the opposing party).

#### 4.15.2 EVIDENCE: ORDER OF PRESENTATION

Hearings on petitions shall proceed as follows:

1. The hearings shall be open and public.
2. The Hearing Officer shall announce the name of the petitioner (owner) and shall determine if the petitioner or petitioner's representative is present. If neither is present, the Hearing Officer shall ascertain whether the notice required was given to the petitioner. If the notice has been given and the petitioner is not present, the petition shall be deemed abandoned. If the notice has not been given, the hearing shall be postponed to a later date and proper notice thereof shall be given to the petitioner. Petitioner's appearance shall be sufficient if by counsel or designated representative.
3. If the petitioner is present, the Hearing Officer shall then announce the nature of the petition and verify the appeal.
4. The Hearing Officer shall announce issues resolved by stipulation and not a subject matter of the proceeding and on his own motion enter any stipulations between the parties into evidence.
5. The Hearing Officer shall then announce the issues to be decided, as framed in the pleadings, and as amended by any stipulations which have been put into evidence.
6. The Hearing Officer shall require the petitioner to present petitioner's case first.
7. All testimony shall be taken under oath or affirmation.
8. The hearing need not be conducted according to the technical rules relating to evidence and witnesses. The Rules of Evidence are listed elsewhere in this procedure. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The Board may act only upon the basis of evidence properly admitted into the record. A full and fair hearing shall be accorded the parties. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for rebuttal, and for

argument.

#### 4.16 WITHDRAWAL OF PETITION

A petition may be withdrawn at any time prior to or at the time of the hearing upon written request signed by the petitioner or his/her representative.

#### 4.17 AMENDMENT OF APPEAL AFTER SUBMISSION

The petitioner may petition the Hearing Officer for amendment of the appeal after submission of the case for decision for the purpose of conforming the petition to proof. If the Hearing Officer determines that an amendment is appropriate each party shall be given a 15 day notice of the intended amendment and opportunity to show that he/she will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence in his/her behalf. If such prejudice is shown the Hearing Officer shall reopen the case to permit the introduction of additional evidence.

#### 4.18 DETERMINATION OF BENEFIT ASSESSMENT HEARING OFFICER

The Hearing Officer shall hear the case and review all the evidence and documents in the record. After the conclusion of the hearing, he shall submit written findings of fact and a determination of the issues presented and shall normally submit the findings and determinations to each party within 30 days after the conclusion of the hearing. This 30-day time limit may be extended in particularly complex cases where additional time to develop findings and determinations may be required. In these cases, the Hearing Officer shall notify both parties in writing that an extension will be taken and shall include an estimate of the date when the findings and determinations will be provided. A copy of the findings and determinations shall be delivered to the SCRTD Benefit Assessment Office and the petitioner personally, or sent to the petitioner and SCRTD by Certified U.S. Mail at the most recent address of the parties contained in the hearing record.

Within 14 days after the mailing of the proposed findings and determinations, the petitioner must notify the SCRTD Benefit Assessment Office in writing of any objections to the Hearing Officer's findings and recommendations and request, in writing, that the findings and determinations be referred to the Appeals Panel as described below. If the petitioner fails to respond within the 14-day period it shall be conclusively presumed that the petitioner agrees to the determination as written.

Within 14 days after the mailing of the proposed findings and determinations, the District will notify the petitioner in writing of any objections to the Hearing Officer's findings and recommendations and will provide to the petitioner a copy of the request, in writing, that the findings and determinations be referred to the Appeals Panel as described below. If the District fails to respond within the 14-day period, it shall be conclusively presumed that the District agrees to the determination as written.

If the petitioner and District have accepted the findings, the SCRTD staff will submit the findings and determinations to the SCRTD Board for disposition in a timely manner.

If the SCRTD staff or petitioner objects to the findings of the Hearing Officer, the following process may be voluntarily invoked by either party. The Hearing Officer's record, findings and determinations will be referred to a special Appeals Panel of three Hearing Officers. The Board shall appoint the Appeals Panel by drawing five names at random from the group of names comprised of retired judges under contract with the District to serve as Hearing Officers and confirming the names drawn by two-thirds vote of the members of the Board. The judge who conducted the hearing and the alternate judge for this hearing will be removed from consideration. If any of the first three judges drawn are unavailable to serve, the fourth and then the fifth judge drawn will be requested to serve on that Appeals Panel. The cost of the hearing before the Appeals Panel will be borne by SCRTD. The Appeals Panel will hold a hearing and review the findings of the Hearing Officer and the record. Prior to the hearing, the petitioner or the SCRTD staff may file a brief with the Appeals Panel. If a brief is filed, it must be filed at least 10 days prior to the hearing. At the hearing, the petitioner and the SCRTD staff may each make an oral presentation, not exceeding 15 minutes, before the Appeals Panel. A party not making a presentation may make a rebuttal, not exceeding 15 minutes if the other party speaks. The presentation or rebuttal must address the findings of the Hearing Officer. No new evidence will be taken or admitted.

#### 4.19 DECISION OF THE APPEALS PANEL

Acting on the evidence properly before it, the Appeals Panel may accept, reject, return the petition back to the Hearing Officer for further findings, or amend and accept, as amended, the findings and determination of the Hearing Officer. In the event that the petition is returned to the Hearing Officer by the Appeals Panel and the original Hearing Officer is unavailable to re-consider the case for the purpose of making further findings the alternate Hearing Officer designated by the Board for this hearing will be contacted by Staff to coordinate any additional proceedings required.

After the conclusion of the hearing, the Appeals Panel shall submit a written determination of the issues presented and shall submit the findings and determinations to each party within 45 days after the conclusion of the hearing.

This 45-day time limit may be extended in particularly complex cases where additional time to develop findings and determinations may be required. In these cases, the Appeals Panel shall notify both parties in writing that an extension will be taken and shall include an estimate of the date when the findings and determinations will be provided. A copy of the findings and determinations shall be delivered to the SCRTD Benefit Assessment Office and the petitioner personally, or sent to the petitioner and SCRTD by Certified U.S. Mail at the most recent address of the parties contained in the hearing record.

The SCRTD staff will submit the findings of the Hearing Officer and the Appeals Panel to the Board of Directors in a timely manner.

#### 4.20 DECISION OF THE SCRTD BOARD

Acting upon the evidence properly before it, the SCRTD Board may accept, reject, or amend and accept as amended the determination of the Hearing Officer or the Appeals Panel. In making its decision, the Board shall comply with the provisions of Sections 33002.9 et seq. of the Public Utilities Code, and the Board's Resolution to Establish Benefit Assessment Districts approved July 11, 1985.

##### 4.20.1 NOTICE OF SCRTD BOARD DECISION

Notice of the decision shall be sent to the petitioner by Certified U.S. Mail and to the SCRTD Benefit Assessment Office by the Board Secretary within 14 days after the decision. If the decision requires any changes to the assessment roll, the SCRTD Benefit Assessment Office shall notify the appropriate offices of the Los Angeles County government of the change in assessment within 30 days after it becomes effective. A copy of this notification will be sent to the petitioner.

##### 4.20.2 EFFECTIVE DATE OF DECISION

The decision shall become effective immediately.

##### 4.20.3 RECONSIDERATION AND REHEARING

The decision of the SCRTD Board is final. The SCRTD Board shall not rehear or reconsider a petition.

#### 4.21 POWER TO ADMINISTER OATHS

In any proceedings under this procedure the Secretary of the SCRTD, the Hearing Officer, or the hearing reporter, has the power to administer oaths and affirmations and to certify to official acts.

ATTACHMENT A

Following is a list of assessable commercial uses. Similar uses may be assessable:

Addressograph service  
Air conditioning equipment service  
Amusement enterprises including boxing arenas, merry-go-round, ferris wheel or carousel, taxi dance hall, strip tease show, billiard or pool hall, bowling alley, dance hall, games of skill and science, penny arcade, shooting gallery, skating rink, theatre and the like  
Appliance repair, household  
Aquarium  
Art or antique shop  
Auditorium  
Automobile service station, tire and tube repairing, battery servicing, automobile lubrication, automobile laundry or wash rack  
Automobile and trailer sales  
Bakery goods shop  
Bank or financial institution  
Bar or cocktail lounge  
Barber shop or beauty parlor  
Baseball or football stadiums or boxing arenas  
Baths, Turkish and the like  
Bird store  
Blueprinting or photostating  
Book or stationery store  
Bootblack stand  
Broadcasting studio  
Building materials, retail  
Burglar alarm business  
Business college, professional or scientific school or college, for profit  
Carpenter, plumbing or sheet metal shop  
Catering shop  
Child care facilities or nursery schools, for profit  
Circus  
Clothes cleaning agency or pressing establishment  
Clubs or lodges, bridge clubs, fraternal associations, for profit  
Collection agency office  
Confectionary store  
Custom dressmaking or millinery store  
Department store  
Drive-in businesses, including theatres, refreshment stands, restaurants, food stores and the like  
Drug store  
Dry goods or notions store  
Employment agency or bureau  
Exhibits, commercial or cultural, for profit  
Export-import business  
Feed and fuel store  
Film exchange  
Florist or gift shop

Frozen food store  
 Golf course or club; including miniature or pitch and putt courses,  
 golf driving tees or ranges and similar commercial golf uses  
 Grocery, fruit or vegetable store  
 Hardware or electric appliance store  
 Hospitals, sanitariums or clinics, for profit  
 Hotels (including motels)  
 Ice storage house  
 Interior decorating store  
 Jewelry store  
 Laundry agency  
 Laundries or cleaning establishments of a self service type, using  
 only automatic machines with non-flammable cleaning fluid  
 Locksmith shop  
 Meat market or delicatessen store  
 Medical or dental clinics and laboratories, for profit  
 Mimeographing service  
 Museum (for profit)  
 Music conservatory or music instruction  
 Newsstand  
 Nursery, flower or plant  
 Offices, business or professional  
 Parcel delivery service, branch  
 Park, playground or recreational or community center, privately  
 operated  
 Pet shop  
 Physical culture institution, reducing salon  
 Pony riding ring, without stables  
 Public auctions  
 Prescription pharmacy  
 Printing, publishing or lithographing establishments  
 Photographer  
 Restaurant, tea room or cafe  
 Rubber or metal stamp store  
 Second-hand store or pawnshops  
 Shoe store or shoe repair store  
 Sign painting shop  
 Sound score production  
 Studio, except motion picture  
 Swimming pool, commercial  
 Tailor, clothing or wearing apparel shop  
 Taxidermist  
 Telephone exchange  
 Tire shop  
 Theater and showcase theater  
 Trade school  
 Trading stamp business  
 Typewriter or adding machine repair  
 Upholstery shop  
 Wedding chapel  
 Other uses similar to the above list  
 Uses customarily incident to the above named uses and accessory  
 buildings when located on the same lot.

ATTACHMENT B

CONFLICT OF INTEREST REGULATIONS  
FOR BENEFIT ASSESSMENT DISTRICT  
HEARING OFFICERS AND DISTRICT STAFF MEMBERS  
HEARING BENEFIT ASSESSMENT APPEALS

Section 1 - The Board of Directors of the Southern California Rapid Transit District hereby adopts the following Conflict of Interest Regulations for Benefit Assessment District Hearing Officers and SCRTD Staff Members who hear Benefit Assessment Appeals pursuant to Sections 33002.9 through 33002.14 of the Public Utilities Code, and the Procedures for Appealing Southern California Rapid Transit District Benefit Assessments (Procedures) which were adopted by this Board on May 23, 1985 (and as amended).

Section 2 - Each Hearing Officer, as referred to in Section 4.6 of the Procedures, and each Staff Member, as referred to in Section 4.7 of the Procedures shall execute a Statement of No Conflict of Interest (Statement), a sample of which is attached to these regulations as Exhibit "A".

Section 3 - The Statement of No Conflict of Interest required pursuant to Section 2 shall be filed with the District Secretary prior to the Hearing Officer or Staff Member hearing the appeal.

Section 4 - Any Hearing Officer or Staff Member shall disqualify himself or herself from hearing any appeal where prior to the commencement of the hearing he or she discovers that he or she, or any member of his or her immediate family, has an interest in the property which is the subject of the appeal or interest in a property of a similar use located within the Benefit Assessment Districts. For purposes of these regulations:

- (a) "Immediate family" means the parents, spouse, dependent children and all other lineal descendants, brothers, sisters, and children of brothers and sisters.
- (b) "Interest in property" includes any legal or beneficial interest in the property itself or any income therefrom.

Section 5 - Any determination from the Hearing Officer is voidable by the Board of Directors upon the application of either party to the hearing upon a determination by the Board of Directors that the Hearing Officer had a Conflict of Interest.

Section 6 - Any Hearing Officer who violates any provision of these Conflict of Interest Regulations shall be in breach of the agreement to hear the appeal and shall not receive compensation for the conduct of the hearing or for other duties performed as Hearing Officer where the determination is voided in whole or in part because of the Conflict of Interest. The violation of these Conflict of Interest Regulations by any Hearing Officer shall also subject the Officer to any other remedy provided by law.

Section 7 - Any Staff Member who violates any provision of these Conflict of Interest Regulations shall be subject to appropriate discipline by the District, including dismissal from employment.

Section 8 - If during or after a hearing it comes to the attention of any Hearing Officer or Staff Member that he or she or any member of his or her immediate family has any interest in the property which is the subject matter of the appeal or any property substantially affected by the appeal, he or she shall disclose such interest to the parties to the appeal. The Hearing Officer or Staff Member upon application of either party, or upon his or her own motion, shall excuse himself or herself from further participation in the case. In the case of a Hearing Officer, he or she shall suspend further proceedings in the matter and report to the Board at its next regularly scheduled meeting, and request that another Hearing Officer be assigned. In the case of a Staff Member, the District shall assign a new Staff Member.

If a hearing has already concluded, both parties may waive the Conflict of Interest after it has been fully disclosed to them. In the event of such a waiver, the determination of the Hearing Officer, or any stipulation entered into between the Petitioner and any Staff Member, shall be enforceable to the same extent as is provided in the Procedures.

EXHIBIT "A"  
STATEMENT OF NO CONFLICT OF INTEREST

I have been assigned to hear the Benefit Assessment Appeal in the Matter of \_\_\_\_\_, Case No. \_\_\_\_\_. I have read the Petition filed by the petitioner herein, and to my knowledge neither I nor any member of my immediate family has any interest in the property which is the subject matter of the hearing or any property which is substantially affected by the appeal. I therefore represent that I have no conflict of interest and I may proceed to hear the appeal.

If any information comes to my attention, either through evidence presented at the hearing, or otherwise, that I have any interest in the property which is substantially affected by the appeal, I will immediately disclose such interest to the parties and will comply in all respects with the provisions of Section 8 of the Regulations.

\_\_\_\_\_  
Signature of Hearing  
Officer/Staff Member

\_\_\_\_\_  
Typed Name

\_\_\_\_\_ Hearing Officer

\_\_\_\_\_ Staff Member

\_\_\_\_\_  
Date