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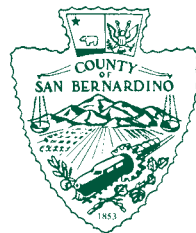


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FINAL REPORT

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ADMINISTRATIVE COMMITTEE



ADMINISTRATIVE COMMITTEE



Front row left to right:

Rod Rupp, Dr. Peter Bulza, Sandra Shahan, Becki Hernandez-Powell,
Dr. Izar Martinez, Ron Brooks

Back row left to right:

Patricia Swangel, Franklin J. Browning, John R. Saathoff,
Robert Romero, Samuel Ferry

ADMINISTRATIVE COMMITTEE

The Administrative Committee had the responsibility for investigating the following County departments and/or agencies:

Board of Supervisors	Risk Management Department
Clerk of the Board	Arrowhead Regional Medical Center
County Administrative Office	Department of Behavioral Health
County Counsel	Public Health Department
Human Resources	Local Agency Formation Commission
Information Services Department	Superintendent of Schools
Purchasing Department	

Initially the Administrative Committee was assigned responsibility for, and initiated investigative procedures of, the Arrowhead Regional Medical Center and Ethics Compliance in the County. Also, two committee members attended all Board of Supervisors regularly scheduled meetings and reported Board proceedings to the Grand Jury at its regularly scheduled Thursday meetings. The reports on the Arrowhead Regional Medical Center, the Board of Supervisors, and Ethics are contained in the Public Support and Services and Governmental Review sections of this report respectively.

The Administrative Committee received a complaint from a former employee of the County and subsequently conducted a comprehensive investigation of the Department of Public Health. The findings and recommendations relative to the investigation are contained in this report.

Individually and collectively, the members of the Administrative Committee extend a most sincere expression of appreciation to all those individuals in the respective departments investigated for their cooperation and support during the past year.

DEPARTMENT OF PUBLIC HEALTH (DPH)

BACKGROUND

In August 2008, the Board of Supervisors forwarded a complaint letter from Dr. Maury Manliguis, former Medical Health Officer of San Bernardino County (SBC), to the Grand Jury. The assertions in this letter criticized many aspects of the Department of Public Health (DPH). In the following eight months, the Grand Jury examined documents and interviewed many witnesses. (*See Attachment A - Dr. Maury Manliguis' Letter to the BOS*)

An extensive investigation was done into the education and experience requirements for the Director of Public Health position, both in San Bernardino County and in surrounding counties. (*See Attachment B & C - San Bernardino County Job Description & Counties Comparisons*)

Dr. Manliguis' allegations refer to the following issues:

1. Incompetence of employees which endangers the Department's infrastructure and the public at large
2. Lack of experience among current administrators of DPH
3. Abrupt implementation of the Integration/Reorganization project

ALLEGATION FINDINGS

1. Health and Safety Code Section 121361 prohibits a health facility, local detention facility, or state correctional institution from discharging a person known or reasonably believed to have tuberculosis before the discharge is approved and a treatment plan is reviewed by the local health officer.

The SBC Medical Health Officer on Friday, August 1, 2008, was Dr. Manliguis. At 2:45 p.m. that day, the Human Resources Officer (HRO) required Dr. Manliguis to sign an interoffice memorandum issued by the Director of Public Health. This memorandum informed him that he was being "*relieved of his normally assigned duties*" and was being placed on paid administrative leave effective immediately.

That interoffice memo specified Dr. Manliguis' work hours as follows: "*Your work hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding one (1) hour for lunch from 12:00 p.m. to 1:00 p.m. You are to report in each morning by 8:00 a.m. to [name] the Human Resources Officer at [number]. Any exception to this schedule must be cleared through [name]. While on paid administrative leave, you*

are to be available to report to work and be reachable by telephone by the Department.” The memo also stated that he could not have any contact and/or enter the County facility without first obtaining permission from the Human Resources Officer.

In addition, at that time, the Human Resources Officer required Dr. Manliguis to surrender his ID Badge, Deputy Health Officer Badge, and his Blackberry. Not until Monday, August 4, 2008, at 3:24 p.m. was Dr. Ryan Zane designated as the Interim Health Officer.

The interoffice memo that outlined Dr. Manliguis’ work hours failed specifically to direct him to be available outside the 8:00 a.m. to 5:00 p.m. work hours in order to fulfill his duties required by Health and Safety Code Section 121361. As a result of this omission, there was uncertainty within the DPH for approximately 72 hours as to who within the Department was designated to fulfill the duties mandated by statute.

2. According to the *Health Officer Practice Guide for Communicable Disease Control* in California, “Law enforcement agencies such as the Sheriff’s office or the local police department enforce Health Officer orders because Health Officers do not have Peace Officer status. Peace Officers have the broadest authority to effectuate an arrest, and are protected in their use of reasonable force to do so. Therefore, criminal enforcement requires local law enforcement involvement and may also include the District Attorney and Probation Department. Furthermore, the enforcement of civil orders for detention, isolation or quarantine of individuals will likely be conducted with the assistance from law enforcement.”

An incident occurred in Needles, California, on August 30, 2008, Labor Day weekend, that required the coordination of effort between the Department of Public Health and the Sheriff’s Department. Despite repeated warnings by the DPH, a tuberculosis patient was disobeying a Department of Public Health order regarding his medication and quarantine. As a result, the Health Officer decided to enforce the order by transporting the patient to the Arrowhead Regional Medical Center for treatment and evaluation. Efforts by the Department of Public Health to obtain assistance from the Sheriff’s Department were hampered by poor communication and coordination by DPH.

San Bernardino County has no policies or procedures manual in place for the enforcement of civil orders for detention, isolation, or quarantine of individuals.

3. The Grand Jury reviewed the educational and work experience of the current administrators within the DPH. These positions included the Director of Public Health, Assistant Director, Director of Nursing, and the Chief Medical Health Officer. None of the top DPH administrators had extensive experience in the field of Public Health.

When he was hired, the Director had earned a Bachelor's Degree in Economics and a Master's Degree in Public Administration (MPA) from California State University, San Bernardino. He was the San Bernardino County's Director of Purchasing for one year and had worked for one year as a legislative analyst for the Board of Supervisors. He had also been Director of Education at Barstow Community College and an adjunct instructor at a variety of colleges. Presently, he is working on his Doctorate in Public Administration. He had no experience in Public Health prior to his present position.

The Assistant Director had earned an Associate of Science Degree in Respiratory Therapy from Crafton Hills Community College. She obtained her Bachelor of Science Degree in health care administration from Rochville University, a non-traditional program. Currently she is working on her second Bachelor's Degree in organizational leadership from La Verne College. She had been the Director of Respiratory Services of Arrowhead Regional Medical Center for two years.

The Director of Nursing has been a registered nurse since 1979. She moved to California in 1985. She earned a Bachelor's Degree in nursing in 1998 and a Master's Degree in nursing in 1999. Her Bachelor's Degree included a Public Health Certificate, in addition to her nursing license. She is presently in a graduate program to obtain a degree in clinical psychology.

The Chief Medical Officer has a medical degree, specializing in obstetrics/gynecology. He had some foreign experience with Africa World Health.

Neighboring counties require that their Directors/Medical Officers have advanced education in the area of Public Health. When this investigation was started, San Bernardino County had no such qualifications for the Director/Medical Officer. (*See Attachment B & C - San Bernardino County Job Description & Counties Comparisons*)

4. Multi-funded grants provide a portion of the DPH's clinical program budget. However, clinic staff was arbitrarily re-assigned with no regard to funding sources or required grant criteria. At one administrative meeting, the program directors decided how many and which nurses would be re-assigned. The following week, however, that agreed-upon arrangement was changed by administrators without notifying or consulting the staff. Program managers were concerned that grant criteria were not being respected in these changes, resulting in the possible loss of funding.
5. San Bernardino County policy requires that all employees be treated with respect and dignity in order to maintain and promote faith and confidence of the people in their government.

A limited number of DPH employees involved in the reorganization and integration of the clinical departments described negative incidents involving the Director of

Public Health. They felt intimidated and perceived some comments as a threat to their employment. This undermined employee morale and made staff reluctant to voice dissenting viewpoints. The Grand Jury made no determination whether or not such conduct was pervasive throughout the DPH.

6. Although change is inevitable in any new administration, the new Director of Public Health stated at one of his first staff meetings that he intended to "*fix a broken department...I have been fixing organizations for 20 years and I am here to fix you.*" Testimony indicated that this director and other administrators were not willing to listen to the expertise and opinions of the DPH staff. Some staff members were threatened with termination. Several DPH employees reported comments and incidents involving upper administrators which ranged from veiled to overt hostility.

OTHER FINDINGS

7. *Human Resources Supervisor's Guide* requires that "*work performance evaluations be completed by the immediate supervisor. No change shall be made except for appeals or by mutual consent of the parties.*"

On July 3, 2008, Dr. Manliguis, as immediate supervisor, evaluated Employee X. The evaluation was signed by both parties, a copy was given to the employee and the original was placed in the employee's personnel file. However, within one week, Employee X told Dr. Manliguis that his evaluation had been changed by someone else, and a new, less positive evaluation had been substituted in his file without Dr. Manliguis' knowledge or approval. The employee hesitated to complain because he believed his job was in peril. Human Resources (HR) policy prohibits any changes after the employee has signed an evaluation, and no appeals process was initiated. This action is against San Bernardino County HR personnel rules.

8. The salary comparison between San Bernardino County and neighboring counties shows a significant discrepancy. (*See Attachment B & C - San Bernardino County Job Description & Counties Comparisons*)
9. The San Bernardino County Department of Public Health Mission Statement states that its institutional goal is "*to satisfy our customers by providing community and preventive health services that promote and improve the health, safety, well being, and quality of life of San Bernardino County residents and visitors.*" That mission statement is commendable because the County of San Bernardino covers an area of 20,052.50 square miles and has a population in excess of 2 million residents who depend on the DPH for services and protection. That institutional goal is shared by other non-profit organizations which also provide public health services within the County.

The San Bernardino County Department of Public Health has worked diligently to provide better, more efficient health care with the institution of an "Integration"

program throughout the County. This program provides the opportunity for a number of medical services to be available under one roof. The County's Holt Clinic in Ontario is presently operating under the new program. A similar clinic, the H Street Clinic in the City of San Bernardino, is operated by a non-profit organization and has experience with the "Integration" approach the DPH is hoping to establish. Also, the H Street Clinic owns and operates the \$6,000 fiber optic machine, the only colposcope instrument in the County. This instrument is used in anoscopy procedures. However, the DPH chooses to send its clients to a Palm Springs facility for that screening.

During the investigation, the Grand Jury found a lack of dialogue and collaboration between DPH and the H Street Clinic. The leaders of DPH and the H Street Clinic were unable to agree on the issues which prevented a more collaborative relationship. Because the investigation was limited to only one non-profit organization, the Grand Jury did not determine whether or not the problems extend to relationships between DPH and other nonprofit organizations which provide health services.

The Department of Public Health is in a position to expand the availability of health services to County residents by assisting other county health nonprofit organizations to improve their programs.

RECOMMENDATIONS

- 09-01 Ensure coverage of mandated duties by requiring the Director of Public Health to familiarize him/herself with the duties, requirements, and work hours of the clinical position affected and consult with the Human Resources Officer to ensure coverage for duties mandated by regulation or statute before disciplinary action is taken. (Finding 1)
- 09-02 Create a written policy statement that outlines procedures, duties, and responsibilities of various departments in the enforcement of a civil order for the detention, isolation, and quarantine of individuals infected with communicable diseases. (Finding 2)
- 09-03 Require that the Director of Public Health have the following minimum qualifications:
- Masters Degree in Public Health, Health Administration, Public Administration, or closely related field. (Finding 3)
- or**
- Two years of experience as an administrator in charge of a County or City Public Health Program or two years as an assistant administrator of a hospital, or five years experience as the top manager of a significant community-based or non-profit organization. (Finding 3)

09-04 Require that the Chief Medical Officer of Public Health have the following minimum qualifications:

- California State Physician and Surgeon's Certification authorized by the Board of Medical Examiners of the State of California.
- Masters Degree in Public Health, Health Administration, Public Administration, or closely related field.
- Certification from the American Board of Preventive Medicine.
- At least one year of experience in an administrative capacity. (Finding 3)

09-05 Increase availability of public health services to the community by establishing collaborative and cooperative working relations with non-profit health service organizations. (Finding 9)

July 30, 2008

To: The San Bernardino County Board of Supervisors
San Bernardino County Government Center
385 N Arrowhead Ave,
Fifth Floor
San Bernardino, CA 92415-0110
Office: 909-387-4565
Fax: 909-387-5392

RE: Concerns Regarding the Public Health Department

Dear Board of Supervisors:

I am writing this letter to you out of deep concern and sincere passion for the department of public health for whom I have been the Acting Health Officer since the resignation of Dr. Margaret Beed. Prior to assuming this role I was the Deputy Health Officer, Chief Medical Officer, Chief of Disease Control and Prevention, the Tuberculosis Controller, and Clinic Physician with the department. Needless to say, I spent much of my time becoming intimately familiar with the many areas in which my programs, personnel, and inner workings of the department at ALL levels function. Thus, I believe it places me in a very good position to express my concerns and thoughts to you.

I would like to outline my greatest concerns, which I would ask be considered and taken seriously by you as you oversee the county and all its departments. I do understand that being in the positions you are in, you must rely on others within the multitude of departments within the county to keep you informed of the activities, issues, and concerns that may arise. To that end, I believe it is my duty to carry out my job in such a manner.

1) I am first and foremost concerned with the competency of the current administration in directing the department of public health.

Coming from a public health background and training in preventive medicine I have been left wondering how it is that the entire public health administration has been selected and placed into the executive positions.

- None of these people have any public health training and it also appears that they have a very limited interest in learning about and understanding the foundation, principles and vision upon which public health is founded.
- While they are proceeding with a (required???) community assessment process, there has been no discussion or plans to include Public Health Department program staff in the process.

2) In my dealings with my fellow administrators I have concluded that they are not qualified for these positions, but have also created situations that may be damaging to the department's infrastructure and the public at large.

- Our administration has fostered a hostile work environment of – intimidation, bullying, and manipulation which has been reported to me by a number of staff; Furthermore, they consistently behave in ways that shift responsibility in order to place blame. These actions have caused my staff to feel they have no recourse to voice their concerns without being dismissed and targeted unnecessarily.
- The administration has been observed on a regular basis to wield their authority with a heavy hand. And as I have overheard in administrative meetings, “[that they] will make changes just because they are in a position to do so ...to keep people from becoming too comfortable.”
- Also witnessed among our leadership are poor administrative and interpersonal skills with constant badgering and poor communication to the programs. People often times become confused because they are directed to carry out orders only to be told to do something in contradiction by another administrator. Bullying, manipulation, deception, and isolation round out a common theme. The hostile work environment is fed by the arrogance our leadership portrays in thinking they are always correct, and that our staff with years of training and experience knows no better. To exacerbate matters several other agencies, and community groups and organizations have expressed their concerns to me over our administration's ability to do their jobs.

3) I am concerned with the administrative staff involved with the integration / reorganization project.

As of this writing they have been placed in charge of what has been termed the “Clinic Integration and Reorganization” project, which, in a nutshell, is to try to provide clinic services from many of our public health programs at each individual clinic site. I do like the idea. However, the administrative staff has proven to be difficult to work with and their decisions have had an adverse impact on the public health programs.

- On a number of occasions, they, I and our programs have reached agreements related to helping clinic operations move forward. Subsequent to our agreements, they have frequently changed their minds without any additional discussions. This has created unnecessary stress and havoc on staff and program operations that are left to figure out the problems this creates. Inevitably, their decisions benefit only the “Clinic Operations” programs without regard for the department as a whole. I have discussed this specific concern on several occasions with the department leadership and have received no support or recognition of the problems that are being created only to be told that our programs should stop resisting.
- I have a deep concern about a Public Health Officer's recommendations being disregarded without consideration thereby placing our County's constituent's health in jeopardy by damaging and neglecting the public health programs.

4) **I am greatly concerned about the hiring practices by the department administrators.**

I must say that the former health officer was an advocate for public health and was actively pursuing her Master of Public Health degree, for which she should be commended. The health officer's departure was sudden and unexpected, creating the vacancy in which I am currently assigned.

- It would be prudent and beneficial to the department to have leaders with at least a background in Public Health to avoid the appearance of indifference to the community and county at large. Their understanding of public health is critical to carrying out the duties of the department.
- I have witnessed a disregard for the community-based components and vision for which public health was created. In addition, it also appears that they have no interest in learning about or recognizing these critical elements of public health. They have consistently marginalized the input of the Health Officers and their skilled and seasoned public health staff. Their focus has been solely on the clinic integration and reengineering project, which has some merit but is being developed to the exclusion and erosion of other public health programs. This does not seem to fall in line with the "Service FIRST" goals of the county.
- In several administrative and supervisory positions within the department you will find that the positions have been assigned to person lacking the minimum requirements as required human resources job descriptions. If these persons had applied through the regular channels they would never have qualified to test.

5) **Look further...**


I would ask that you not take my words at face value but encourage you to charge the grand-jury with investigating the questionable actions of the administration of the department. I further encourage investigators to speak to our current program managers, program coordinators, public health nurses, clinic staff, and other employees regarding the happenings and concerns within the department of public health. You may be surprised at what everyone has to say. Morale is at its lowest, people are leaving **en masse**, and this will continue to occur until something is done to address these problems leaving the department not only in a shambles but also without qualified and experienced personnel.

In Summary:

- **I recommend that a county wide, if not state-wide or nation-wide search be done to find qualified people** who will be more suited to run the public health department.
- **Finally, I would ask that the grand jury be brought in to question ALL current and former public health employees** at all levels in order to determine whether or not a great problem or problems exist. In the end, the only reason the department hasn't fallen completely is because of the strength of the managers and employees who are compassionate about Public Health and willing to put up with this chaos in order to protect it.

I sincerely hope that you will do the right thing and investigate this further. What I have presented is only the tip of the iceberg. For the sake of our public's health, our employees, and the county's reputation I ask you to take my concerns seriously. If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Maury Manligius DO MPH". The signature is written in a cursive style.

Maury Manligius, DO, MPH, MS
Acting Health Officer / Chief Public Health Medical Officer
351 N. Mountain View Ave
San Bernardino, CA 92415
Office: 909-387-6218
Fax: 909-387-6228

ATTACHMENT B

Home

DEPARTMENTS AND PROGRAMS | SERVICES | E-Mail Upd



County of San Bernardino Human Resources Department

Job Descriptions

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Class Title: Public Health Director

Class Code: 08048

Salary: \$76.75 - \$76.75 hourly
\$6,139.92 - \$6,139.92 biweekly
\$13,303.17 - \$13,303.17 monthly
\$159,638.00 - \$159,638.00 annually

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- [Employee Relations](#)
- [Equal Employment Opportunity](#)
- [Occupational Medicine Services \(The Center\)](#)
- [Western Region Item Bank](#)

Description	Benefits
Under general administrative direction, plan, develop and administer a county-wide public health program; perform related duties as required.	
Distinguishing Characteristics:	
This is a single position class characterized by responsibility to formulate and direct a comprehensive public health program in accordance with health laws and the needs of the community. This position also has administrative oversight over the County Health Officer. This position is distinguished from County Health Officer by the latter's responsibility for medical decisions and its authority under the government code to enforce all health laws in the unincorporated areas of the County and to take any necessary preventive measures during emergency/disaster situations. The Public Health Director reports to the Assistant County Administrator - Human Services System.	

Examples of Duties:

Duties may include, but are not limited to, the following:

1. Plan, organize, and direct the activities of the Public Health Department, including program, fiscal, personnel, and other administrative functions; establish and direct the implementation of policies and procedures; ensure compliance with all applicable health laws.
2. Develop and administer public health services and programs related to: controlling and preventing disease; providing health education programs; enforcement of health and animal control regulations; recording of vital statistics; providing primary medical care services for those unable to obtain adequate health care; coordinating and organizing emergency and disaster medical services; and providing laboratory services.
3. Manage a large, multi-discipline staff through subordinates; review and approve personnel actions; evaluate subordinate staff.
4. Direct the planning, development and administration of the department's fiscal operations.
5. Maintain liaison and coordinate the work of the department with federal, state and local health agencies, County officials, affected departments, and community organizations; represent the County at conferences and meetings.
6. Make presentations to the Board of Supervisors, other governmental entities, and community organizations as required.
7. Prepare correspondence and reports.
8. Provide vacation and temporary relief as required.

Representation Unit:

Exempt

Supplemental Information:

Position is in the Unclassified Service.

**A COMPARISON OF SELECTED CHARACTERISTICS
OF
PUBLIC HEALTH DIRECTORS
IN
FIVE SOUTHERN CALIFORNIA COUNTIES**

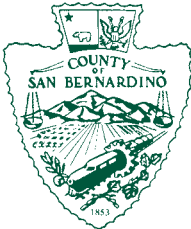
September 16, 2008

COUNTY

	San Bernardino	Riverside	Orange	San Diego	Los Angeles
Salary	\$159,638	\$135,052-\$206,794	\$223,000 - \$245,000	\$160,160 - \$245,440	None Listed
Qualifications	No specific qualifications are listed in the Job Description. (see attachment)	Knowledge of: Principles and methods of administration and management; standards of medical service; budgetary planning and fiscal control. Personnel management. Two years of experience as an administrator in charge of a county or City Public Health Program, or two years as assistant administrator of a hospital....	Knowledge of management and organization necessary to plan, develop, implement, coordinate and evaluate the organization, programs and activities of a multifunction agency.	Knowledge of policy/procedures development and implementation related to a variety of health and human services/programs that protect and promote public health.	No specific qualifications are listed. Only examples of duties are indicated.
Education/Training	No specific educational qualifications are	Graduation from an accredited college or university with a	Five (5) options are listed. In all five options the	Examples of qualifying educational/experience	Certification by the American Board of Preventive

<p>Education/Training continued:</p>	<p>specified in the Job Description. (See attachment)</p>	<p>Master's Degree in Public Health, Health Administration, Public Administration or related field.</p>	<p>applicant must have considerable education in medical and/or health field with at least three years experience and licensed in the State of California.</p>	<p>are: Extensive experience at an executive and/or management level providing specialized health and/or human services for a large public agency. Highly desirable – A medical (M.D.) or doctoral (Ph.D.) degree from an accredited college or university in a related clinical or public health discipline with appropriate licensure. California State Physician and Surgeon's Certification authorized by the Board of Medical Examiners of the State of California.</p>	<p>Medicine and two years experience in a highly responsible management capacity directing a variety of public health services in a metropolitan setting.</p>
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AUDIT/FISCAL COMMITTEE



AUDIT/FISCAL COMMITTEE



Front row le t to rig t:

Rod Rupp, Samuel Ferry, James Wilson, Ken Taylor

Back row le t to rig t:

Franklin J. Browning, Dr. Harry Stavros, Ron Brooks, Tom Hale

AUDIT/FISCAL COMMITTEE

The Audit Fiscal Committee assists the Grand Jury Foreman in managing the Grand Jury's budget. Also, the Committee has the responsibility to review the operations and functions of the following County Departments:

Assessor

Auditor/Controller-Recorder

Treasurer-Tax Collector

There were no significant findings or recommendations for the Office of the Treasurer-Tax Collector. The Assessment Appeals Process investigation was completed with the assistance of the Office of the Assessor and the Clerk of the Board. Two topics that the Grand Jury studied at the Auditor/Controller-Recorder (ACR) resulted in investigations into the details of the County's Historical Archives and the ACR's Quarterly Audit Report. The results of the three investigations are published in this 2008-2009 Grand Jury Report.

OFFICE OF THE ASSESSOR

ASSESSMENT APPEALS PROCESS

SUMMARY

The Grand Jury began its review of the assessment appeals process after noticing that the procedure had been the subject of past Grand Jury reports by several other California counties. Those reports were the result of public complaints. The 2008-2009 San Bernardino County Grand Jury discovered two areas of interest in our own County's assessment appeals process. First, the public is poorly informed as to the assessment appeals process. Second, third-party vendors are proliferating in the appeals process.

The assessment appeals process is a simple procedure. The process is governed by California statute and is the same in every county. When a property owner disagrees with an assessment, the property owner has the right to file an appeal. The appeal form is a concise, one-page document, which notes information that any property owner will have on record. On receipt of the application, the appellant is informed by the County as to a hearing date and the necessary documents to be presented.

BACKGROUND

Governed by State statute and largely by Propositions 8 (1979) and 13, the Assessor has responsibility for the assessment rolls, exemptions adjustments, identification of property owners, property value determinations, and reassessments.

An informal review and discussion between the property owner and San Bernardino County's Assessor's Office may be requested by the property owner. The Office of the Assessor endeavors to work with the property owner to clarify the basis for the new values, and to provide any information relating to the value of the property. Failing agreement between the Assessor and the property owner at the informal discussion, the property owner may file an Application for Changed Assessment with the Clerk of the Board (COB).

After the informal meeting between the appellant and the Assessor's staff, the COB administers the remainder of the assessment appeals process. The COB issues the appeal application and reviews the returned applications for accuracy and completeness. The COB then schedules a hearing before the Assessment Appeals Board. The COB also maintains a clerical presence at each board meeting.

The board that hears appeals cases, the Assessment Appeals Board, is appointed by the Board of Supervisors. The Assessment Appeals Board establishes the correct amount, or *equalizes* property valuations, for the purpose of taxation. Residential appeals are heard by one hearing officer. Business property appeals are heard by a panel of three hearing officers. The Appeals Board generates a decision based on the input from a

representative from the Assessor's Office and the appellant. If the appellant disagrees with the Appeals Board's decision, the appellant can appeal to the Superior Court.

Others involved in the process are County Council, the Auditor/Controller-Recorder, and Treasurer-Tax Collector. These entities have minor, but important roles and do not appear at appeals hearings. The Grand Jury checked into the public interaction the County maintains concerning assessment appeals. We looked at public informational handouts, phone help at the Assessor's Office and COB, and pertinent County web-sites. We talked at length with both major department heads on the subject. We also compared San Bernardino County's public outreach with several other counties. The Grand Jury interviewed top personnel in all involved County departments and attended several appeals hearings. The Grand Jury studied the problems of other counties and the ramifications of Proposition 8 (1979) and Proposition 13.

A majority of the appellants had difficulty communicating in English, which is the sole language in which the proceedings are conducted. These appellants' cases take significantly more time to discuss than those cases presented by fluent English speakers.

The Clerk of the Board's clerical staff turned away some of the appellants for various reasons before the hearing took place. Those turned away by the clerk generally did not have up-to-date information about their property or comparables. Out-of-date data was a common problem with appellants. However, the greatest difficulties in the proceedings were the language and potential cultural problems that faced the appellants. The appeal hearing officers clearly had a problem understanding most of those appealing. One of the appellants thought that rules governing assessments should be uniform with those of his native country. Each of the individual appeals was complicated not only by the subject matter, but by the cooperation and mental awareness of the appellant.

Continuances were liberally granted for those appellants requesting more time to present their cases.

Although four counties in California charge fees to appellants, San Bernardino County does not. In the early 1990's Orange County, according to their 2005-2006 Grand Jury Report, experienced a massive increase in defaults in favor of the appellant due to the county's appeals process dysfunction, short staffing and a massive increase in appeals. Because some of these appeals were not resolved within the statutory two-year limit, Orange County defaulted in favor of the homeowner. Orange County did not begin charging fees for assessment appeals, but rather chose a much more expensive means to cope with the problem. Orange County expanded the number of assessment appeals processing personnel, expanded the capacity of the existing appeals boards, implemented a new Assessment Appeals tracking system, and refined the intake function of the assessment appeals process. Four California counties did begin charging fees for filing assessment appeals applications: San Luis Obispo, San Mateo, Santa Clara and Stanislaus Counties. These counties also charge a fee for a Finding of Fact.

The Assessor's Office will operate with a 25% decrease in County funding this fiscal year. Also, appeals claims have been increasing rapidly. In 2007 there were about

5,500 appeals filed, 12,000 in 2008, and many more expected in 2009. There are about three years of cases currently in process.

Larger businesses typically hire dedicated outside attorneys to plead their assessment appeals before the hearing officers. These attorneys overwhelm the Board's intellectual understanding of law, appeals, assessments and valuation. One large corporation ranges between \$87 million and \$160 million in downwardly revised assessments every year. The current group of appeal hearing officers is composed of former real estate brokers, an attorney, and a CPA. Their training in the appeals process consists of an on-line course given by the California State Board of Equalization. They are not expertly versed in the law and the assessment and valuation process.

The Assessor's Office does not offer the Assessment Appeals Board legal representation. County Counsel sometimes has a presence at these hearings but does not take an active part in the proceedings. The Assessor hires no outside legal advice and relies on in-house staff to argue its position.

Third-party vendors are those companies that advertise that they will complete required forms and represent the appellant at assessment appeals hearings. By way of radio advertisements and direct mailings, third-party vendors have become a regular part of the appeals hearing process. Since 1991 the number of companies offering assessment appeal services for the public has proliferated into the hundreds statewide. These companies are easily accessible via the Internet and by way of their direct mailings.

Generally, there are two types of product third-party vendors offer clients. The most basic and inexpensive are those companies that for \$39 to \$99 will send an appeal form to the Clerk of the Board for the client. The second type of third-party vendor costs considerably more money. This third-party vendor also files the form for the appellant and further represents the appellant at hearings and promises to have the most current and complete documentation requested by the Office of the Assessor. These vendors may charge a flat fee or a percentage of the recovery, or a combination of both. One vendor charges \$179 for its services plus a \$30 late fee if the respondent does not reply to the mailing within 30 days. Sometimes their costs to the appellant are not clear.

Although third-party representation is not illegal, some of the advertising tactics by third-party vendors are misleading. Numerous mailings are cloaked in official appearing documentation. The homeowner often mistakes these mailings as notices from a government agency. Mailings and advertisements are often not clear as to the services their companies render or the costs of those services. Some vendors are out-of-state, some are without an address or phone number. Website vendors give very little information about themselves or their background and experience.

The Police Department of the City of Claremont has issued a warning to Claremont residents concerning third-party vendors who offer a reduction in property taxes for a fee. The State of California Business & Professions Code (B&P), Assessment Appeal Application Filing Services, Section 17537.9, warns the public of third-party scam activity. This year the State Legislature has introduced a bill, AB 992, to amend,

update and toughen B&P Section 17537.9. The Attorney General of California has issued a recent consumer alert concerning third-party assessment appeals vendors. In April, 2009, the San Diego County Assessor released a statement warning the public of the \$179 or more fee charged by third-party vendors who have recently mailed thousands of notices. The Assessors of Ventura, Orange and San Diego Counties display warnings of third-party vendor activity on their official web pages.

FINDINGS

1. Many appellants participating in the assessment appeals process are not fluent in the English language.
2. The Clerk of the Board does not take steps to control frivolous submittals of Applications for Changed Assessments
3. The Office of the Assessor does not adequately defend its assessment positions when challenged by companies and individuals that employ specialist attorneys.
4. The County of San Bernardino does apprise the public of third-party assessment appeals vendors' activities.
5. A time-line of important dates in the assessment process found on other county's websites was helpful to understanding the assessment appeals process. The Assessors of Ventura, San Diego and several other counties now display time-lines on their websites.
6. All the information a property owner needs to process his own assessment appeal, without third-party assistance, is on the County Assessor's website.

RECOMMENDATIONS

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| 09-06 | Provide language translation service to those appellants requesting such a service. (Finding 1) |
| 09-07 | Collect a filing fee for an Application for Changed Assessment and a fee for a Finding of Fact. (Finding 2) |
| 09-08 | Utilize a private legal firm, or County Council personnel, knowledgeable in the field of appraisals and assessment appeals, to represent the Office of the Assessor during major appeals. (Finding 3) |
| 09-09 | Take the necessary steps to regulate third-party assessment appeals vendors. (Finding 4) |
| 09-10 | Post a permanent and more detailed notice on Assessor's website, warning that third-party vendors are not necessary in the assessment appeals process. (Finding 5) |

09-11 Include on the Assessor's website a time-line of important dates to remember during the year in order to assist the public in keeping abreast of time limits and due-dates of the property assessment processes as the year progresses. (Finding 6)