

# Office of the Assessor

County of Santa Clara

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Lawrence E. Stone, Assessor

## MEMORANDUM

**To:** Supervisor Dave Cortese

**From:** Lawrence E. Stone, Assessor

**Date:** November 19, 2018

**Subject:** Appointment to AAB II

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In light of our prior conversations, I was profoundly disappointed to learn of your decision to recommend that the Board of Supervisors appoint Los Gatos residential real estate broker David Tonna to replace CPA Stephen Reiss on Assessment Appeals Board II (AAB) on the Board agenda this Tuesday. I write to respectfully request you delay this decision so that we may further discuss my office's concern and the significance of this appointment. As this vacancy has been open for several months, I am hopeful that adding an additional few weeks will not be an inconvenience.

I was surprised you passed on an application submitted by Chris Carneghi, a certified real estate appraiser with the MAI designation, a highly respected leader locally in his profession, and a 30-year member of the Appraisal Institute. MAI is the highest certification in the appraisal profession. Mr. Carneghi was encouraged to apply by Norm Hulberg, MAI, and Stan Tish, MAI. Stan is retiring after 22 years as Chair of the County's Assessment Appeals Board I.

As I have stressed previously to you, your Board colleagues, and County management, the Assessment Appeals Board is not just another County board or commission. It is one of the two most important appointments made by the Board of Supervisors. The Assessment Appeals Board has the full responsibility for equitably resolving all assessment appeals filed in Santa Clara County. The AAB decisions have significant financial impacts on public schools, cities, community colleges, and special districts.

To: Supervisor Cortese  
From: Larry Stone  
Re: Appointment to AAB II  
Page 2 of 3

The assessed value at risk filed by one company, Apple, is \$10.4 billion, representing a property tax refund liability of \$104 million. Interestingly, none of the Apple value in dispute involves the Apple "Spaceship". Much of that is yet to come.

The assessed value at risk for the 10 largest assessment appeals filed by Silicon Valley companies is \$38.7 billion, or a property tax refund liability of \$387 million. Twenty-five additional assessment appeals currently pending have potential property tax refunds in excess of \$500,000 each. Only \$409 million or 0.5 percent of the total assessed value at risk involves homes, townhomes and condominiums.

Currently, Santa Clara County has a total of 5,136 active appeals in which the assessed value in dispute is \$81.9 billion, representing a property tax refund liability of \$819 million. The level of financial risk to Santa Clara County is serious, requiring highly qualified and experienced AAB members.

Eight years ago, the Board established two residential Value Hearing Officer (VHO) positions to adjudicate only appeals of residential properties. VHO's provide the benefit of resolving routine residential appeals in a less formal environment, allowing the AAB to focus on the complicated, high-risk challenges from sophisticated Silicon Valley corporations and property owners. After reviewing Mr. Tonna's application (attached) he submitted two years ago, he appears imminently qualified to serve as a residential VHO.

My paramount concern with this important appointment is the composition of AAB II. If Mr. Tonna is appointed to Board II, the majority of the AAB members on Board II will be residential real estate brokers with no experience valuing complex commercial properties or sophisticated high-tech business properties, unrelated to "brick and mortar" real property.

Several years ago, the Board acknowledged that the ideal professional profile of a three-member assessment appeals board is (1) MAI appraiser, (2) real estate attorney, and (3) certified public accountant, preferably with a business valuation experience. Mr. Tonna's credentials as a residential real estate broker do not have any of these desired characteristics.

The vast majority of the issues facing our appeals boards are extraordinarily complex and complicated, requiring the valuation of highly specialized properties like research and development campuses, data centers and biotech facilities, major commercial, industrial and retail properties, including hotels, major multi-family apartment properties, commercial aircraft, business property, including high-tech electronic equipment, machinery and computers, telecommunications equipment, and one-of-a-kind properties like the 49ers Levi's Stadium, currently in appeal.

To: Supervisor Cortese  
From: Larry Stone  
Re: Appointment to AAB II  
Page 3 of 3

Mr. Tonna simply does not possess the experience to contribute in a meaningful way to make value determinations of such very complex specialized property. The experience and acumen of potential candidates is even more important in Silicon Valley because of the complexity of our high technology industrial base. Routinely, my most qualified senior appraisal and auditing staff members are up against some of the most expensive and high-powered attorneys and experts during appeal hearings. The ability to see through arguments and evidence, that may only tell a portion of the truth to determine what is fair market value, is extremely difficult, especially if you have no experience working with tax agents. Having AAB members with comparable skills and training is essential for success.

Finally, it is important to note that all AAB value decisions are final and cannot be appealed to the Superior Court. The Assessment Appeals Board is not an appropriate place for "on the job" learning. I urge you to delay your recommendation to a future Board meeting so that we may fully discuss my concerns.

LES:lcc

cc: Supervisor Simitian, President  
Supervisor Chavez, Vice President  
Supervisor Wasserman, Member  
Supervisor Yeager, Member  
Dr. Jeff Smith, CEO  
Megan Doyle, AAB Counsel for Assessor's Office  
Norm Hulberg  
Stan Tish

