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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

PALI-HOLLOWAY, Plaintiff and Appellant, v. LOS ANGELES COUNTY ASSESSMENT APPEALS BOARD, Defendant and Respondent; COUNTY OF LOS ANGELES et al., Real Parties in Interest and Respondents.	B283091 (Los Angeles County Super. Ct. No. BS165943)

APPEAL from judgment and order of the Superior Court of Los Angeles County, James C. Chalfant, Judge. Affirmed.

Law Offices of Robert A. Pool and Robert A. Pool, for Plaintiff and Appellant.

Lamb & Kawakami, Michael K. Slattery, Shane W. Tseng; Mary C. Wickham, County Counsel, Richard Girgado, Senior Deputy County Counsel, for Real Parties in Interest and Respondents.

Plaintiff and appellant Pali-Holloway, LLC filed an application in 2011 with defendant Los Angeles County Assessment Appeals Board (Appeals Board) seeking a reduction in a property tax assessment. In August 2016, the Appeals Board denied the application. Pali-Holloway filed a petition for a writ of mandate to compel the Appeals Board to give notice that the application was invalid and an opportunity to correct errors, to enter Pali-Holloway's opinion of the property's value on the assessment roll until the date of the final determination, and to make findings of fact regardless of whether Pali-Holloway had requested written findings. Real parties in interest and respondents on appeal, County of Los Angeles and the Los Angeles County Board of Supervisors (collectively the County) filed a demurrer on the ground that Pali-Holloway had an adequate remedy at law in the form of a tax refund action. The trial court sustained the demurrer and dismissed the petition. Pali-Holloway appeals from the judgment of dismissal following the order sustaining the demurrer.

On appeal, Pali-Holloway contends the Appeals Board had a ministerial duty to: (1) provide notice that the application was invalid and an opportunity to correct errors under title 18, section 305, of the California Code of Regulations; (2) enter Pali-Holloway's opinion of the property's value on the assessment roll for the 2011 tax year and each successive year until a final determination was made under Revenue and Taxation Code section 1604;[1] and (3) make findings of fact pursuant to *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506 (*Topanga*), regardless of whether written findings were requested. We conclude the petition fails to state a claim for a writ of mandate compelling the Appeals Board to provide Pali-Holloway with an opportunity to correct application errors, to enter Pali-Holloway's opinion of value on the assessment roll, or to make findings in the absence of a request for findings. Therefore, we affirm.

FACTS

Pali-Holloway owned or leased property on Holloway Drive in West Hollywood. New construction was completed on the property on February 28, 2008. Property taxes of approximately $221,000 were levied in 2011, based on a total assessment of $22,131,098. The assessment included the

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[1] All further statutory references are to the Revenue and Taxation Code unless otherwise stated.

values of the land, the improvement, the fixtures and the personal property.

On September 27, 2011, Pali-Holloway filed an application with the Appeals Board seeking to reduce the assessment of the property. In Pali-Holloway's opinion, the total value of the property was $8,908,399, based on lower values for the land and the improvement, and no value for fixtures or personal property. The difference would reduce Pali-Holloway's property taxes by $130,000. Pali-Holloway checked a box on the application that it was not requesting written findings of facts. It also did not designate the application as a claim for refund.

The form required Pali-Holloway to state the facts supporting the requested change in value by checking all boxes that applied. If uncertain, the applicant could simply check "other" and attach a brief explanation of the reason for filing the application. Pali-Holloway checked a box stating that the base year value that was assessed based on a change in ownership on February 28, 2008, was incorrect. It did not check a box directly below that to state the base year value that was assessed based on new construction on February 28, 2008, was incorrect. Pali-Holloway also checked a box to challenge the assessor's valuation of all personal property and fixtures.

In July 2012, Pali-Holloway granted the Appeals Board a two-year extension of time to hear the matter. The waiver expired. On August 4, 2016, the Appeals Board held an administrative equalization hearing. Pali-Holloway testified

that it had made a clerical error on the application and intended to challenge the base year value based on new construction rather than a change in ownership. The Appeals Board did not provide Pali-Holloway with an opportunity to correct the application. During the course of the hearing, the Appeals Board declared the application to be invalid as filed. The Appeals Board denied the application without hearing evidence on the value of the property. No explanation for the Board's decision was contained on the mandatory audio recording of the proceedings.

A written notice of the Board's decision was issued on August 17, 2016. The notice lists the facts on which the application was filed and the action taken as to each fact. The challenge to the assessor's value of personal property and fixtures had been withdrawn. The Appeals Board listed the fact that the change of ownership-base year value was incorrect and denied the application on that basis.

PROCEDURAL BACKGROUND

On November 15, 2016, Pali-Holloway filed a petition for a writ of mandate directed to the Appeals Board under Code of Civil Procedure sections 1085 (traditional mandate) or 1094.5 (administrative mandate). An amended petition was filed on November 22, 2016, to attach a verification. Pali-Holloway sought to compel the Appeals Board to: (1) carry out a ministerial duty to provide notice that the

application was invalid and a reasonable opportunity to correct the errors; (2) enter Pali-Holloway's opinion of value as stated on the application form for the 2011 tax year as the new construction base year assessment on the assessment roll for each tax year beginning in 2011 until the Board made a valid final determination on the application; and (3) provide a finding on the audio recording of the administrative hearing, regardless of whether written findings had been requested, pursuant to *Topanga*, *supra*, 11 Cal.3d at pages 513–514.

The Appeals Board filed a statement of non-opposition to the petition for writ of mandate, taking no position on the merits and declining to be an active participant in the proceedings. The County filed a demurrer on the ground that Pali-Holloway had an adequate remedy at law in the form of a tax refund action. The County argued that Pali-Holloway submitted a valid application challenging the base year value, but testified at the hearing that it did not intend to challenge the base year value. The Appeals Board had discretion under these circumstances to decline leave to amend, and a discretionary ruling is not ministerial. Pali-Holloway had an adequate remedy to review the determination for an abuse of discretion in a property tax refund action.

Pali-Holloway opposed the demurrer. It argued that the Board found the application was invalid but did not provide an opportunity for correction, which violated the applicable laws. Even if the Board had discretion over

amendment under these circumstances, the demurrer failed to address Pali-Holloway's remaining claims based on its rights to a timely hearing and findings.

The County filed a reply. The trial court found that traditional mandamus was not available, because legal errors during an administrative hearing were governed by administrative mandamus. The exclusive means to seek judicial review of the Board's assessment decision was a tax refund action. Pali-Holloway had an adequate remedy at law in a refund action, and therefore, mandamus was not available in any form to review the Board's decision. The claim for a finding on the audio recording was subject to the same analysis. Although a writ of mandate may be supported when an appeals board fails to make a final determination on an application within two years, the petition disclosed that the Board had made, before the petition was filed, a determination and denied the application. The trial court sustained the demurrer on the ground that Pali-Holloway had an adequate remedy at law in a refund action. On the stipulation of the parties, the trial court dismissed the action. Pali-Holloway filed a timely notice of appeal from the judgment.

DISCUSSION

Standard of Review

"A demurrer tests the legal sufficiency of the factual allegations in a complaint. We independently review the superior court's ruling on a demurrer and determine de novo whether the complaint alleges facts sufficient to state a cause of action or discloses a complete defense. (*Loeffler v. Target Corp.* (2014) 58 Cal.4th 1081, 1100; *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42.) We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken. (*Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 20; *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.) We liberally construe the pleading with a view to substantial justice between the parties (Code Civ. Proc., § 452; *Gilkyson v. Disney Enterprises, Inc.* (2016) 244 Cal.App.4th 1336, 1340; see *Schifando*, at p. 1081 [complaint must be read in context and given a reasonable interpretation]); but, '[u]nder the doctrine of truthful pleading, the courts "will not close their eyes to situations where a complaint contains allegations of fact inconsistent with attached documents, or allegations contrary to facts which are judicially noticed."' (*Hoffman v. Smithwoods RV Park, LLC* (2009) 179 Cal.App.4th 390, 400; see *Brakke v. Economic Concepts, Inc.* (2013) 213

Cal.App.4th 761, 767 ['[w]hile the "allegations [of a complaint] must be accepted as true for purposes of demurer," the "facts appearing in exhibits attached to the complaint will also be accepted as true and, if contrary to the allegations in the pleading, will be given precedence"']; *SC Manufactured Homes, Inc. v. Liebert* (2008) 162 Cal.App.4th 68, 83 ['[i]f the allegations in the complaint conflict with the exhibits, we rely on and accept as true the contents of the exhibits'].)" (*Ivanoff v. Bank of America, N.A.* (2017) 9 Cal.App.5th 719, 725–726 (*Ivanoff*).)

"'"The interpretation of a regulation, like the interpretation of a statute, is, of course, a question of law . . . , and while an administrative agency's interpretation of its own regulation obviously deserves great weight . . . , the ultimate resolution of such legal questions rests with the courts. . . ."' [Citations.]" (*Manriquez v. Gourley* (2003) 105 Cal.App.4th 1227, 1234–1235.) The same rules applicable to statutory interpretation apply to the interpretation of a regulation. (*Id.* at p. 1235.) "'Our fundamental task in interpreting a statute is to determine the Legislature's intent so as to effectuate the law's purpose. We first examine the statutory language, giving it a plain and commonsense meaning. We do not examine that language in isolation, but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment. If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in

absurd consequences the Legislature did not intend. If the statutory language permits more than one reasonable interpretation, courts may consider other aids, such as the statute's purpose, legislative history, and public policy. [Citations.]' (*Coalition of Concerned Communities, Inc. v. City of Los Angeles* (2004) 34 Cal.4th 733, 737; see *San Leandro Teachers Assn. v. Governing Bd. of San Leandro Unified School Dist.* (2009) 46 Cal.4th 822, 831.)" (*DeYoung v. Commission on Professional Competence etc.* (2014) 228 Cal.App.4th 568, 575–576.)

"'"Where the complaint is defective, '[i]n the furtherance of justice great liberality should be exercised in permitting a plaintiff to amend his [or her] complaint.'"' (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 970–971.) We determine whether the plaintiff has shown 'in what manner he [or she] can amend [the] complaint and how that amendment will change the legal effect of [the] pleading.' (*Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.) '[L]eave to amend should *not* be granted where . . . amendment would be futile.' (*Vaillette v. Fireman's Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 685; see generally *Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 373–374.)" (*Ivanoff*, *supra*, 9 Cal.App.5th at p.726.)

General Law Governing Review of Property Tax Assessments

A. Statutory Scheme for Taxpayer Challenge to Assessment

"Proposition 13 set the base year value used to determine each year's taxes at the value the local assessor set on the 1975–1976 tax bill. [Citation.] A property's base year value may be reestablished only if the property is purchased, is newly constructed, or there is a change in ownership. (*Sunrise* [*Retirement Villa v. Dear* (1997) 58 Cal.App.4th 948,] 956, [(*Sunrise*)].)" (*William Jefferson & Co., Inc. v. Orange County Assessment Appeals Bd. No. 2* (2014) 228 Cal.App.4th 1, 9 (*William*).) "The Revenue and Taxation Code contains separate provisions authorizing a taxpayer to challenge an assessor's determination of (1) base year value, and (2) an assessment for any particular tax year." (*Ellis v. County of Calaveras* (2016) 245 Cal.App.4th 64, 70 (*Ellis*).)

The Legislature has provided a three-stage review process for assessment challenges and refund requests. (*Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298, 1307 (*Steinhart*).) Local boards of equalization, which are either a county assessment appeals board or the board of supervisors, hear appeals from the assessor's decisions. (Cal. Const., art. XIII, § 16; *Sunrise, supra,* 58 Cal.App.4th at p. 958.) "The local board may hear appeals concerning not only the assessed value, but also the assessor's

determination of whether a change of ownership has occurred. (*Sunrise,* at p. 958; § 1605.5.)" (*William*, *supra*, 228 Cal.App.4th at p. 9.)

A taxpayer seeking a reduction in an assessment initiates the appeal process by filing an application with the county assessment appeals board under section 1603 "showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property." (§ 1603; *William*, *supra*, 228 Cal.App.4th at p. 9.) "The local board then must conduct a public hearing to receive evidence and decide the appeal. (*Sunrise,* [*supra*, 58 Cal.App.4th] at p. 958; §§ 1604, 1605.4, 1609.)" (*William*, *supra*, at p. 9.)

"A property owner must be aware of the distinction between a successful application that reduces a base year value and the property owner's right to a refund of any excess taxes paid based on the erroneous base year value: 'The base-year value is a control figure from which an assessment is determined. The correction of the base-year value allows the assessor to determine whether there has been an overassessment or an underassessment. Thereafter, an application must be made for a refund." [Citation.]' (*Sunrise, supra,* 58 Cal.App.4th at p. 956.)" (*William*, *supra*, 228 Cal.App.4th at p. 10.)

The second stage in the review process, which takes place after payment of the tax, is to file a claim for an administrative refund. (*Steinhart*, *supra*, 47 Cal.4th at p. 1307.) "'In the property tax context, application of the exhaustion principle means that a taxpayer ordinarily may

not file or pursue a court action for a tax refund without first applying to the local board of equalization for assessment reduction under section 1603 and filing an administrative tax refund claim under section 5097.' [Citation.] . . . [Taxpayers] that claim that their property has been overvalued must exhaust the assessment appeal administrative remedy before resorting to the courts." (*Williams & Fickett v. County of Fresno* (2017) 2 Cal.5th 1258, 1268.)

The third stage is to file an action in the trial court under section 5140, which authorizes a taxpayer to bring an action to recover a tax after a refund claim has been refused. (*Steinhart*, *supra*, 47 Cal.4th at pp.1307–1308.)[2] "Where an assessment is not wholly void, an action to obtain a refund of

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[2] Section 5096 sets forth the grounds for a tax refund action as follows: "Any taxes paid before or after delinquency shall be refunded if they were: [¶] (a) Paid more than once. [¶] (b) Erroneously or illegally collected. [¶] (c) Illegally assessed or levied. [¶] (d) Paid on an assessment in excess of the ratio of assessed value to the full value of the property as provided in Section 401 by reason of the assessor's clerical error or excessive or improper assessments attributable to erroneous property information supplied by the assessee. [¶] (e) Paid on an assessment of improvements when the improvements did not exist on the lien date. [¶] (f) Paid on an assessment in excess of the value of the property as determined pursuant to Section 1614 by the county assessment appeals board. [¶] (g) Paid on an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469."

taxes paid is in fact a proceeding to review the decision of the board of equalization, in which the function of the trial court is to determine whether a correct method of valuing the property was followed, and then to ascertain whether there was substantial evidence before the board to justify the assessment as made. An action to recover taxes paid under protest savors of certiorari or review." (*County of Sacramento v. Assessment Appeal Bd.* (1973) 32 Cal.App.3d 654, 672 (*County of Sacramento*).)

"Any action challenging the merits of an assessor's base year value determination is a refund action that must be brought against the county or city that collected the tax even if the action does not expressly seek a refund or disclaims the right to a refund. (See *Schoenberg* [*v. County of Los Angeles Assessment Appeals Bd.* (2009)] 179 Cal.App.4th [1347,] 1355 [tax refund action is exclusive means to challenge merits of local assessment board decision 'even if the effect of a proposed mandate order would not be an immediate refund, but only the potential for a future refund']; *Little* [*v. Los Angeles County Assessment Appeals Bds.* (2007)] 155 Cal.App.4th [915,] 922–925 [(*Little*)]; *Merced* [*v. County Taxpayers' Ass'n v. Cardella* (1990)] 218 Cal.App.3d [396,] 400–401.)" (*William*, *supra*, 228 Cal.App.4th at p. 12.)

B. Applicability of Mandate to Tax Assessment Proceedings

An ordinary writ of mandate under Code of Civil Procedure section 1085 can be issued "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station . . . ." (Code Civ. Proc., § 1085, subd. (a).) "To obtain writ relief, a petitioner must show '"(1) A clear, present and usually ministerial duty on the part of the respondent . . . ; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty . . . ." [Citation.]' [Citation.]" (*Agosto v. Board of Trustees of Grossmont-Cuyamaca Community College Dist.* (2010) 189 Cal.App.4th 330, 335–336.)

'"A ministerial act . . . is one that a public officer is required to perform in a prescribed manner in obedience to the mandate of legal authority and without regard to his own judgment or opinion concerning the propriety or impropriety of the act to be performed, when a given state of facts exists.' [Citation.]" (*Lazan v. County of Riverside* (2006) 140 Cal.App.4th 453, 460.) "Mandate will not issue if the duty is not plain or is mixed with discretionary power or the exercise of judgment." (*Los Angeles County Prof. Peace Officers' Assn. v. County of Los Angeles* (2004) 115 Cal.App.4th 866, 869.)

If there is a ministerial duty and a beneficial right, "[t]he writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course

of law." (Code Civ. Proc., § 1086.) "'Although the statute does not expressly forbid the issuance of the writ if another adequate remedy exists, it has long been established as a general rule that the writ will not be issued if another such remedy was available to the petitioner. [Citations.] The burden, of course, is on the petitioner to show that he did not have such a remedy.' [Citation.]" (*Flores v. California Department of Corrections & Rehabilitation* (2014) 224 Cal.App.4th 199, 205.)

A mandamus action is generally not available to obtain judicial review of a local assessment appeals board's decision, because a tax refund action provides taxpayers with an adequate remedy at law. (*William*, *supra*, 228 Cal.App.4th at p. 11.) "The special procedure established by Revenue and Taxation Code sections 5136 through 5143, allowing the taxpayer to pay the disputed tax under protest and to sue for refund, is such an adequate remedy and mandate is denied. (*Star-Kist Foods, Inc. v. Quinn*[(1960) 54 Cal.2d 507,] 511–512.)" (*County of Sacramento*, *supra*, 32 Cal.App.3d at p. 672.)

A writ of administrative mandamus under Code of Civil Procedure section 1094.5 challenges the validity of a final administrative order or decision from "a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the" public agency, board or hearing officer. (Code Civ. Proc., § 1094.5, subd. (a).)

An assessment appeals board decision results from an administrative hearing, but the procedure to obtain judicial review of the decision is considerably different from other administrative agencies. (*Little*, *supra*, 155 Cal.App.4th at p. 923.) "Where the procedure for testing the validity of the assessment and the tax levied pursuant thereto is applicable, through a payment under protest and suit for refund, there is no right to employ administrative mandamus, under Code of Civil Procedure section 1094.5." (*County of Sacramento*, *supra*, 32 Cal.App.3d at p. 672.)[3]

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[3] "This limitation on taxpayer actions challenging local assessment appeals board decisions derives from the California Constitution and the Revenue and Taxation Code. The California Constitution states, 'No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature.' (Cal. Const., art. XIII, § 32.) Similarly, the Revenue and Taxation Code provides, 'No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against any county, municipality, or district, or any officer thereof, to prevent or enjoin the collection of property taxes sought to be collected.' (§ 4807.) The policy behind these provisions is 'to allow revenue collection to continue during litigation so that essential public services dependent on the funds are not unnecessarily interrupted.' (*Merced*[*County Taxpayers' Assn. v. Cardella* (1990) 218 Cal.App.3d 396,] 400.)" (*William*, *supra*, 228 Cal.App.4th at p. 11.)

"The institution of Code of Civil Procedure section 1094.5 arose through the necessity of providing review for agencies exercising quasi-judicial powers, when the Supreme Court held that certiorari could not constitutionally be employed, except where the action to be reviewed was truly an exercise of judicial power. The boards of equalization, however, have such powers directly conferred by the Constitution (Cal. Const., art. XIII, §§ 9, 9.5), as well as some other agencies. The Supreme Court holds that regular writs of mandamus and certiorari can be directed to such agencies, when appropriate. (*Boren v. State Personnel Board* (1951) 37 Cal.2d 634, 638.) They are not appropriate where the suit for refund provides an adequate remedy at law. (*Star-Kist Foods, Inc. v. Quinn*, *supra*, 54 Cal.2d 511.)" (*County of Sacramento*, *supra*, 32 Cal.App.3d at pp. 672–673, fn. omitted.)

In *Sunrise,* the assessor established a new base year value based on a change of ownership and the property owner applied for a reduction several years later. (*Sunrise, supra,* 58 Cal.App.4th at pp. 951–952.) The assessment appeals board concluded the application was untimely and it did not have jurisdiction to hear the application. (*Ibid.*) The property owner filed a petition for writ of administrative mandate to compel the assessor to restore the original base year value or compel the appeals board to hear the application on its merits. (*Ibid.*) The *Sunrise* court explained the extent of the relief available as follows: "If the administrative agency is empowered to decide the factual

issue in the first instance and it erroneously fails or refuses to do so, either administrative or traditional mandate is available to compel the agency to hold a hearing. [Citations.] In such cases the proper remedy is to order the agency to perform its statutorily mandated duty—but the court may not step into the shoes of the agency and perform its function for it, since mandate does not lie to control the discretion conferred in a public agency." (*Id.* at p. 955.) The court directed the trial court to issue a writ of mandate compelling the board to conduct a new hearing and decide whether a change of ownership had occurred which required a new base year value. (*Id.* at pp. 961–962.)

In *County of Sacramento*, however, the county brought an action for a writ of administrative mandate after the assessment appeals board canceled an assessment and refunded the tax paid. (*County of Sacramento, supra*, 32 Cal.App.3d at p. 673.) The appellate court found the county had no adequate remedy at law to challenge the tax proceedings. (*Ibid.*) The court concluded "[t]he procedure to review the tax proceedings is proper, whether labelled administrative mandamus (Code Civ. Proc., § 1094.5), regular mandamus (Code Civ. Proc., § 1084 et seq.), or certiorari (Code Civ. Proc., § 1067 et seq.). The extent of the review is the same." (*Ibid.*) In addition, the appellate court found a writ of mandamus was appropriate to compel the assessment appeals board to proceed on the taxpayer's application for a reduction, because the board had also

refused to exercise jurisdiction and ascertain the value of the taxpayer's property interest. (*Id.* at p. 676.)

Notice of Incomplete Application and Opportunity for Correction

Pali-Holloway contends that the application procedures required the Appeals Board to give notice of any error or omission in Pali-Holloway's application and provide a reasonable opportunity to correct the application. We conclude the allegations of the petition do not state a claim for a writ of mandate compelling the Appeals Board to permit correction of the application, and Pali-Holloway has not shown the petition can be amended to cure the deficiency.

Under section 1603, subdivision (a), a taxpayer seeking a reduction in an assessment must file an application with the Appeals Board "showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property."[4] The application procedure is set forth in California Code of Regulations, title 18, section 305 (rule

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[4] Section 1603, subdivision (a), provides in full: "A reduction in an assessment on the local roll shall not be made unless the party affected or his or her agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for the application shall be prescribed by the State Board of Equalization." (§ 1603, subd.(a).)

305). The application form requires applicants to provide specific information listed in rule 305, subsection (c)(1), on the application form, including: the applicant's name and address; the name, address, and written authorization for the applicant's agent, if any; a description of the property; the applicant's opinion of the property's value on the date of the assessment year in issue; the value on the assessment roll on which the assessment was based; and "[t]he facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values." (Rule 305, subd. (c)(1)(G).)

Rule 305, subdivision (c), provides for the board to accept a completed application as follows: "(4) An application that does not include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk; to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board. [¶] (5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall

be required of the applicant on the application form." (Rule 305, subds. (c)(4) & (5).)

Rule 305, subdivision (e) governs amendments to an application.[5] An applicant can amend an application at any

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[5] Rule 305, subdivision (e) provides in full: "(1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which the application might have been timely filed. [¶] (2) After the filing period has expired: [¶] (A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation. [¶] (B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested. [¶] (C)(i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application. [¶] (ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request. [¶] (iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code. [¶] (iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a

time before the filing period expires. (Rule 305, subd. (e)(1).) After the filing period expires, there are three methods to amend an application, depending on the effect of the amendment. (Rule 305, subd. (e)(2).) First, an invalid application may be corrected as set forth in rule 305, subdivision (c)(4). (Rule 305, subd. (e)(2)(A).) Second, the applicant may amend the application if the effect "is not to request relief additional to or different in nature from that originally requested." (Rule 305, subd. (e)(2)(B).) Third, if the application is valid and the amendment would seek additional or different relief, the applicant may request to amend the application and the board, in its discretion, may allow the applicant to amend the application to state additional facts claimed to require a reduction of the assessment. (Rule 305, subd. (e)(2)(C)(i).) To obtain permission to amend the application under the third method, the applicant must state the reasons for the request in writing prior to the hearing or orally at the hearing, and the board may require the applicant to sign a written extension of the two-year period for a hearing. (Rule 305, subd. (e)(2)(C)(ii) & (iii).)

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different period of time. [¶] (3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application."

The statutory requirement to state the facts that the applicant claims require the reduction "does not require that the applicant follow technical rules of pleading or that he set forth evidentiary facts. In recognition of the reality that many, if not most, applicants are laymen who would be denied hearings if formalized technical rules were followed, it has been the judicial policy of this state to construe such applications liberally in favor of the applicant. It has been stated that an application is adequate and 'the purpose of the statutory requirement is served if the board may know from said application "or have some reasonable means of ascertaining" therefrom what the claim of the applicant is, to the end that such claims may be investigated by the assessing authorities prior to hearing.' (*County of Los Angeles v. Ransohoff* (1937) 24 Cal.App.2d 238, 241.)" (*Midstate Theatres, Inc. v. Board of Supervisors* (1975) 46 Cal.App.3d 204, 209 (*Midstate*).) In *Midstate*, the appellate court found the taxpayers' applications were sufficient, even though they had reserved the right to present additional information at the hearing. The *Midstate* court directed the trial court to issue a writ of mandate compelling the board to accept the applications and conduct a hearing. (*Id.* at p. 213.)

An application is not sufficient, however, if it fails to give notice of the taxpayer's intent to seek different relief. (*Helene Curtis, Inc. v. Assessment Appeals Bd.* (1999) 76 Cal.App.4th 124, 131 (*Helene Curtis*).) In *Helene Curtis*, the appellate court found that the taxpayer's applications

stating the assessor's valuation of personal property or fixtures was incorrect were not sufficient, without amendment, to allow the taxpayer to challenge the valuation of the underlying real property. (*Ibid.*) An application indicating that an escape assessment for personal property or fixtures was at issue "did not apprise the assessing authority that it should also prepare to meet a challenge to the underlying real property assessments for the years in question." (*Ibid.*) The taxpayer failed to give sufficient notice of its intent to challenge the original property assessments. (*Id.* at p.132.)

The assessment appeals board is not relieved of its obligation to provide notice that an application is invalid because the discovery takes place at the hearing if the board should have realized before the hearing. (See *Mission Housing Development Co. v. City and County of San Francisco* (1997) 59 Cal.App.4th 55, 77–78 (*Mission*).) In *Mission,* several taxpayers filed a tax refund action, based in part on the assessment appeals board's failure to make a final determination on their applications within two years as required by section 1604, subdivision (c). (*Id.* at p. 62.) The assessment appeals board found the applications lacked information supporting the taxpayers' opinion of value which was regularly provided by other applicants. (*Id.* at p. 77.) In the refund action, the city argued that the taxpayers were not entitled to have their opinions of value entered on the assessment roll, because their applications for assessment reductions had provided only nominal property values, and

therefore, did not provide "full and complete information." (*Ibid*.) The city asserted that the assessment appeals board "had no way to know Taxpayers' applications were incomplete until Taxpayers' counsel admitted at the hearing before the AAB that the values were arbitrary low numbers." (*Ibid*.) The taxpayers contended the additional information sought by the board was not required under section 1604, subdivision (c). The trial court expressed concern, because "'[the taxpayers'] admittedly arbitrary statement of value, without any initial attempt at a good faith valuation, cannot be what the [L]egislature intended by section 1604(c)'s requirement that the applicant provide "full and complete information as required by law."'" (*Id.* at pp. 77–78.)

The appellate court found that the board's objection was to the absence of additional information to support the property values, which other taxpayers routinely provided. (*Mission*, *supra*, 59 Cal.App.4th at p. 78.) "In our view, the *absence* of such information should have alerted the AAB that Taxpayers' applications did not provide full and complete information. The AAB could have informed Taxpayers in writing that such additional information was necessary, and thereby avoided the effect of section 1604, subdivision (c). Because the AAB failed to take this procedural step, Taxpayers were entitled to have their property taxes levied based on the opinions of value stated in their applications for reduction in assessment." (*Ibid.*) The *Mission* court also found that in order to avoid having the taxpayers' opinions of value entered on the assessment roll,

the assessment appeals board had to provide notice under rule 309, subdivision (d), that a timely hearing was not going to be held because the taxpayer had not provided full and complete information. (*Mission, supra,* at p. 77)

In this case, Pali-Holloway specifically invokes section 305, subdivision (c)(4), in seeking an order commanding the Appeals Board to give Pali-Holloway notice and an opportunity to correct its application. Although Pali-Holloway alleges that the Appeals Board declared Pali-Holloway's application to be invalid, its petition does not allege that its application was declared invalid within the meaning of rule 305, subdivision (c)(1). A failure to provide information pursuant to subdivision (c)(1) is necessarily required for Pali-Holloway to be entitled to the relief of notice and an opportunity to correct under subdivision (c)(4).

Here, Pali-Holloway has not, and cannot allege facts that would entitle it to relief under rule 305, subdivision (c)(4). The petition does not allege that Pali-Holloway failed to include information required under rule 305, subdivision (c)(1). It does not allege that the application was not full and complete, or that the board found it was not full and complete. To the contrary, Pali-Holloway attaches two exhibits to the petition that conflict with its allegation that the Appeals Board's finding of invalidity entitles it to relief under rule 305, subdivision (c)(4). First, the application attached to the petition reflects that Pali-Holloway provided all the information required under Rule 305, subdivision (c)(1). Second, the notice of the Appeals Board's action

attached to the petition reflects that the Appeals Board accepted the application, held a hearing, made a final determination and denied the application. Relying on and accepting the contents of these exhibits as true, as we must (*see Brakke, supra*, 213 Cal.App.4th at p. 767; *see also SC Manufactured Homes, Inc. v. Liebert*, *supra* 162 Cal.App.4th at p. 83), Pali-Holloway has not, and cannot plead a case for relief under Rule 305, subdivision (c)(4).

A determination or concession during the hearing that a fact listed in the application did not support a change in the assessed value is not the same as finding that the fact was not included or the application is invalid under subdivision (c)(4). We note that rule 305, subdivision (e), regulates circumstances under which a taxpayer can amend a fact or add facts to the application. Pali-Holloway has explicitly conceded that its petition does not seek relief under rule 305, subdivision (e).

In addition, the complaint fails to allege that Pali-Holloway has no adequate legal remedy. An appeals board's determination of the validity of an application is reviewable by way of a tax refund action. A discretionary ruling to deny amendment of an application would also be reviewed through a tax refund action. Pali-Holloway's claim that it should have received an opportunity to correct the application without making a request for amendment is also reviewable in a tax refund action. Pali-Holloway has an adequate legal remedy to obtain review of the rulings and action by the Appeals Board. We note that Pali-Holloway's

statement of facts in its application may have provided sufficient notice to the Appeals Board that the applicant was challenging the base year value reassessed in February 2008, even if the reason for the reassessment was misstated. If tax records reflect that the base year value was reassessed based on new construction in February 2008 rather than a change in ownership, the Appeals Board may have been aware of the error in the application. Any review of the Appeals Board's decision, as opposed to the exercise of ministerial duties, must be pursued through a tax refund action.

Failure to Timely Hold Hearing and Make Final Determination

Pali-Holloway contends that the petition states a cause of action for a writ of mandate directing the Appeals Board to place Pali-Holloway's opinion of value as stated in the 2011 application on the tax rolls for the 2011 tax year and each subsequent tax year until the board made a final determination in 2016. We conclude that the allegations of the petition are not sufficient to state a cause of action for writ of mandate, and Pali-Holloway has not shown that it could amend the petition to state a cause of action.

"The Appeals Board is required to make a final determination on the application within two years of a timely filing of the application." (*Flightsafety Internat. Inc. v. Assessment Appeals Bd.* (2003) 105 Cal.App.4th 620, 623 (*Flightsafety*).) If the board fails to hear evidence and make

a final determination on an application within two years, "the applicant's opinion of value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year or tax years covered by the application," unless the board and the applicant agreed to an extension of time that applies to the hearing. (§ 1604, subd. (c).) "The reduction in assessment reflecting the applicant's opinion of value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the applicant has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application." (§ 1604, subd. (c)(2).)

If a taxpayer's opinion of value is placed on the assessment roll pursuant to section 1604, subdivision (c), and the application included a request for a reduction in the base year value of the assessment, "the applicant's opinion of value shall remain on the roll until the county board makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for

the tax years during which the county board failed to act." (§ 1604, subd. (d)(1).)[6]

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[6] Rule 309, consistent with section 1604, provides in pertinent part: "(b) A hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment [under section 1603, subdivision (a)], unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time. [¶] (c) If the hearing is not held and a determination is not made within the time specified in subsection (b) of this regulation, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when: [¶] (1) The applicant has not filed a timely and complete application; or, [¶] (2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; . . . . [¶] For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has not been extended pursuant to subsections (b) or (c) of this regulation, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be

"The purpose of section 1604 is to assure a prompt resolution of applications for reduction of assessments. (*Shell Western E & P, Inc. v. County of Lake* (1990) 224 Cal.App.3d 974, 984–985 [(*Shell Western*)].) The section is designed to prevent bureaucratic delay and forestalling of the return of taxpayer's money, by providing a significant disincentive for a taxing authority to delay resolution of the case. (*Ibid.*)" (*United Enterprises, Ltd. v. Assessment Appeals Bd.* (1994) 22 Cal.App.4th 152, 159 (*United Enterprises*).) Section 1604, subdivision (c) establishes a mandatory duty. (*Shell Western*, *supra*, 224 Cal.App.3d at p. 985.) The language of section 1604, subdivision (d), "evinces an intent that where an applicant has applied to reduce his taxes for a prior year and the [Appeals Board] fails to act within two years, the taxpayer prevails and his taxes must be reduced both for the year listed in the application and for the years his application sat idle." (*United Enterprises*, *supra*, at p.160.) The taxpayer's application is "essentially deemed granted by lapse of time." (*Ibid*.)

To state a cause of action for writ of mandate in this case, Pali-Holloway had to allege that the Appeals Board had a clear ministerial duty to act and Pali-Holloway had no other plain, speedy and adequate remedy. Pali-Holloway satisfied the first requirement to allege a ministerial duty of the Appeals Board to act pursuant to section 1604,

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levied for the tax years during which the board fails to act . . . ." (Cal. Code Regs., tit. 18, § 309.)

subdivisions (c) and (d). The petition alleges that the Appeals Board did not hold a hearing on Pali-Holloway's 2011 application until 2016, and no waiver or extension of time applied. As a result of the failure to hold a timely hearing, the board had a mandatory duty under section 1604, subdivision (c), to enter Pali-Holloway's opinion of value as the value upon which taxes were to be levied for the 2011 tax year. Section 1604, subdivision (c) does not permit the Appeals Board to substitute a different value for the 2011 tax year after the application is heard.

Pali-Holloway's application sought a reduction in the base year value of the assessment, so its opinion of value was supposed to remain on the roll until the date of the Appeals Board's final determination on the application. (§ 1604, subd. (d).) No increased or escape taxes could be levied for the tax years in which the Appeals Board failed to act. Under section 1604, subdivision (d), the value that the Appeals Board determined at the 2016 hearing, adjusted for the inflation factor, should have been entered on the assessment roll for the 2016 fiscal year. Based on the allegations of the petition, the Appeals Board had a ministerial duty to enter Pali-Holloway's opinion of value for the tax years from 2011 until the 2016 hearing, and no increased or escape taxes could be levied for the tax years during which the board failed to act.[7]

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[7] We note that if the application was not full and complete, Pali-Holloway would not have been entitled to have its opinion of value enrolled under section 1604,

The petition does not satisfy the second requirement, however, to allege that Pali-Holloway has no other speedy and adequate legal remedy. The petition contains a conclusory allegation that summary denial of the application left Pali-Holloway without a plain, speedy, and adequate remedy, which is not supported by the factual allegations of the petition. The 2016 Appeals Board hearing determined the value to be entered on the assessment roll, adjusted for inflation, for the 2016 fiscal year. As discussed above, based on the factual allegations, Pali-Holloway was entitled to have taxes levied for the 2011 tax year and each tax year until the 2016 fiscal year as provided in section 1604, subdivisions (c) and (d). Pali-Holloway represented to the trial court at the demurrer hearing that it had paid the taxes in full. The parties conceded that a tax refund action is available to Pali-Holloway to obtain a refund of the excess taxes paid for the tax years from 2011 until the Appeals Board's determination of value for the 2016 fiscal year. Pali-Holloway indicated during oral argument on appeal that it simply preferred to proceed by writ of mandate. The petition does not allege that a tax refund action is an inadequate remedy. Pali-Holloway also has not argued that the petition could be amended to allege that a tax refund action is an inadequate remedy.

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subdivisions (c) and (d). In that event, however, the Appeals Board would have been required to give Pali-Holloway an opportunity to correct the application and it did not.

Flightsafety, *supra*, 105 Cal.App.4th 620, on which Pali-Holloway relies, is distinguishable. In *Flightsafety*, the taxpayer filed an application for an assessment reduction for the 1992 tax year on the ground that certain items were personal property, not fixtures. (*Id.* at p. 624.) While the 1992 application was pending, the taxpayer filed assessment reduction applications for the 1993, 1994, 1995 and 1996 assessment years, which the assessment appeals board denied. The board held a hearing on the 1992 application in 1998, at which time the board ordered the taxpayer's opinion of value for the tax year 1992 enrolled based on section 1604, subdivision (c). The taxpayer filed a petition for a peremptory writ of mandate to compel the board to modify the 1998 order and order the taxpayer's opinion of value enrolled for 1993 through 1998 as well, based on section 1604, subdivision (d). The trial court concluded the board had a ministerial duty to enter the taxpayer's opinion of value from the 1992 application on the assessment roll for tax years 1993 through 1998, granted the petition and issued a writ. (*Id.* at p. 626.) The appellate court affirmed the judgment issuing the writ after finding that the board's duty was self-executing, there were no administrative remedies for the taxpayer to exhaust, and the taxpayer was not required to comply with statutory refund procedures to have its opinion of value entered on the assessment rolls for the tax years at issue. (*Id.* at p.629.)[8]

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[8] Following the decision in *Flightsafety*, *supra*, the

The procedural posture in *Flightsafety* was significantly different than the instant case. An appellate court reviews a judgment granting a writ of mandate for substantial evidence to support the trial court's factual findings and a *de novo* determination of legal issues. (*James v. State of California* (2014) 229 Cal.App.4th 130, 136.) ""The question whether there is a 'plain, speedy and adequate remedy in the ordinary course of law,' within the meaning of the statute, is one of fact, depending upon the circumstances of each particular case, and the determination of it is a matter largely within the sound discretion of the court . . . [.]'" [Citation.]" (*Barnard v. Municipal Court of San Francisco* (1956) 142 Cal.App.2d 324, 327–328.) The *Flightsafety* court stated that the taxpayer in that case would be required to bring a tax refund action to obtain a refund. The court did not address whether the tax refund procedure was a plain, speedy and adequate legal remedy, or whether substantial evidence supported the finding in that case that the taxpayer had no other adequate remedy. "'It is

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Legislature amended section 1604 to clarify that an untimely decision by an assessment appeals board on an application for an assessment reduction of the base year value of real property results in the taxpayer's opinion of value becoming the basis for taxation until the board acts, but an untimely decision on an application for an assessment reduction of personal property affects the enrolled value for the year or years covered by the application only. (Leg. Counsel's Dig., Assem. Bill No. 2857 (2003-2004 Reg. Sess.) 6 Stats. 2004, Summary Dig., p. 392.)

axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered.' [Citation.]" (*Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659, 680.) The *Flightsafety* court did not consider whether a tax refund action was inadequate in all cases seeking relief under section 1604, subdivisions (c) and (d), and our review of the demurrer proceedings in the instant case shows that Pali-Holloway failed to sufficiently allege that a tax refund action was an inadequate remedy in this case. We must affirm the judgment on this basis.

Findings by the Appeals Board

Pali-Holloway contends that the Appeals Board was required to make a finding on the mandatory audio recording of the hearing regardless of whether a request for written findings was made. We disagree. The Legislature enacted a complex statutory scheme to regulate equalization proceedings, including a requirement that the county assessment appeals board provide written findings upon request. The statutory language does not impose a duty on the board to make explicit findings in the absence of a request.

Section 1611.5 governs a county assessment appeals board's duty to make findings and conclusions. It states in relevant part: "Written findings of fact of the county board shall be made if requested in writing by a party up to or at

the commencement of the hearing, and if payment of any fee or deposit which may be required to cover the expense of preparing the findings is made by the party prior to the conclusion of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing." (§ 1611.5)[9] "The written findings

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[9] Section 1611.5 provides in full: "Written findings of fact of the county board shall be made if requested in writing by a party up to or at the commencement of the hearing, and if payment of any fee or deposit which may be required to cover the expense of preparing the findings is made by the party prior to the conclusion of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his or her request at this time, his or her fee or deposit shall be returned if no findings have yet been prepared. If the request is abandoned, the other party may orally or in writing renew the request upon payment of the required fee or deposit, and becomes responsible for any costs for the preparation of findings. A reasonable fee may be imposed by the county to cover the expense of preparing findings and conclusions. The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his or her petition and at the hearing, including a statement of the method or methods of valuation used in appraising the property. [¶] At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, its determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment

of fact shall fairly disclose the board's determination of all material points raised by the party in his or her petition and at the hearing, including a statement of the method or methods of valuation used in appraising the property." (*Ibid.*) "At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, its determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603." (*Ibid.*)

"'"In light of the semijudicial status of local boards, "their factual determinations are entitled on appeal to the same deference due a judicial decision, i.e., review under the substantial evidence standard." (*Cochran v. Board of Supervisors* (1978) 85 Cal.App.3d 75, 80.)"' (*Mission*, *supra*, 59 Cal.App.4th at p. 73.) "If the county board fails to make findings upon request, or if findings made are found by a reviewing court to be so deficient that a remand to the county board is ordered to secure reasonable compliance with the elements of findings required by Section 1611.5, the action of the county board shall be deemed to be arbitrary and capricious within the meaning of Section 800 of the

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pursuant to subdivision (a) of Section 1603. [¶] If written findings of fact have been requested, the board shall transmit those findings to the requesting party accompanied by a notice that any request for a transcript of the proceedings must be made within 60 days following the date of the final determination of the board."

Government Code, so as to support an allowance of reasonable attorney's fees against the county for the services necessary to obtain proper findings." (§ 1611.6.)

Pali-Holloway contends that the California Supreme Court's holding in *Topanga, supra,* 11 Cal.3d at pages 513–514, requires a county assessment appeals board to make informal findings even when there has been no request for written findings. The *Topanga* court held that an administrative agency must render findings when the agency's decisions are subject to judicial review by way of administrative mandamus, to allow the parties to determine if there is a basis for review and to apprise the reviewing court of the basis for the agency's action. (*Id.* at pp. 513–514.) The court's conclusion followed from the language of Code of Civil Procedure section 1094.5. (*Ibid.*) Section 1094.5, subdivision (b), states that "[a]buse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (Code Civ. Proc., § 1094.5, subd. (b).) The statute also states that "[w]here it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the

light of the whole record." (*Id.*, § 1094.5, subd. (c).) The language of the administrative mandamus statute contemplates that a reviewing court will determine "whether substantial evidence supports the administrative agency's findings and whether the findings support the agency's decision." (*Topanga, supra*, at pp. 514–515.)

The *Topanga* court concluded that "implicit in section 1094.5 is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order. If the Legislature had desired otherwise, it could have declared as a possible basis for issuing mandamus the absence of substantial evidence to support the administrative agency's action. By focusing, instead, upon the relationships between evidence and findings and between findings and ultimate action, the Legislature sought to direct the reviewing court's attention to the analytic route the administrative agency traveled from evidence to action. In so doing, we believe that the Legislature must have contemplated that the agency would reveal this route. Reference, in section 1094.5, to the reviewing court's duty to compare the evidence and ultimate decision to '*the* findings' (italics added) we believe leaves no room for the conclusion that the Legislature would have been content to have a reviewing court speculate as to the administrative agency's basis for decision." (*Topanga, supra*, 11 Cal.3d at p. 515.)

In the context of equalization, however, the Legislature has provided substantially different procedures for review of

the assessment board's decisions, including the right to request written findings. A taxpayer cannot obtain judicial review of a board's decision through a writ of administrative mandamus. Code of Civil Procedure section 1094.5 requires an agency's decision to be supported by its findings and its findings to be supported by the evidence, but section 1611.5 requires only that the board's final determinations be supported by the weight of the evidence. In a tax refund action, the trial court reviews the administrative record to determine whether substantial evidence supports the board's final determinations. Pali-Holloway has not cited any provision of the Revenue and Taxation Code similar to the administrative mandate provisions of Code of Civil Procedure section 1094.5 that requires an assessment appeals board to make reviewable findings in all cases. When the Legislature wants to require an agency to make findings that are reviewable in all cases, it knows how to use language expressing that intent, as shown in Code of Civil Procedure section 1094.5. Instead, the Legislature provided a substantially different method for an applicant to obtain review of county assessment appeals board decisions and authorized the applicant to request written findings. The demurrer to the request to compel a finding was properly sustained.

DISPOSITION

The judgment is affirmed. Respondents County of Los Angeles and the Los Angeles County Board of Supervisors are awarded their costs on appeal.

MOOR, J.

We concur:

BAKER, Acting P.J.

KIN, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.