

C. STEPHEN DAVIS

PROFESSIONAL RESUME

C. Stephen Davis formed Cahill, Davis & O'Neall in Los Angeles in 2007. Mr. Davis' practice almost exclusively emphasizes property tax counseling and controversies.

PRACTICE DESCRIPTION:

Mr. Davis' practice is devoted exclusively to property tax and assessment counseling and litigation. He has represented numerous taxpayers before county assessment appeals boards throughout California, the California Superior Court and the California Court of Appeal. These matters have involved the proper treatment of intangibles, the impact of contamination and compulsory emissions abatement in valuing properties, statutes of limitation, changes of ownership, and controversies relating to special assessments. Mr. Davis has resolved problems associated with the appraisal and assessment of fee and possessory interests in major properties, including oil and gas, hard mineral and geothermal properties, power plants, airport concessions, oil refineries, hotels, golf courses, advertising billboards, shopping malls, warehouses and a non-profit museum.

Mr. Davis' practice also includes participating in rule-making and other proceedings before the California State Board of Equalization ("SBE"). Mr. Davis was an active participant in the proceedings leading to adoption of SBE Rule 473 (assessment of geothermal properties) on behalf of the Geothermal Resources Association and SBE Rule 905 and Amended Rule 905 (assessment jurisdiction for electric generation facilities) on behalf of the Independent Energy Producers Association. Mr. Davis participated in drafting the *Assessor's Handbook* Section 566 (assessment of petroleum properties) on behalf of the Western States Petroleum Association, and also participated in developing the SBE's Guidelines for Substantiating Additional Obsolescence for Personal Property and Fixtures. Mr. Davis also represented the California State Outdoor Advertising Association before the SBE for purposes of developing Appraisal Guidelines for Billboards.

PROGRAM CHAIRS:

Mr. Davis has organized and chaired the following programs:

- Chair, Institute for Professionals in Taxation (“IPT”), the American Bar Association (“ABA”)/IPT Advanced Property Tax Seminar 2001-2002 (New Orleans, Louisiana)
- Chair, IPT, the ABA/IPT Advanced Property Tax Seminar 2002-2003 (New Orleans, Louisiana)
- Chair, Eagle’s Lodge West sponsored by the California Bar Association Taxation Section, June 2004 (Sacramento, California)
- Member, IPT Property Tax Program Committee, Annual Conference, 2006 (Huntington Beach, California)
- Co-chair, IPT, the ABA/IPT Advanced Property Tax Seminar 2007-2008 (New Orleans, Louisiana)
- Co-chair, IPT, the ABA/IPT Advanced Property Tax Seminar 2008-2009 (New Orleans, Louisiana)
- Chair, IPT, 2010 Property Tax Symposium (Austin, Texas)

FACULTY/TEACHING ENGAGEMENTS:

Mr. Davis has taught more than two dozen one-day courses on California property taxation to accountants, attorneys, real estate professionals, corporate executives, bank trust officers and property tax representatives for Lorman Educational Services since 1998. The course is titled “Managing California Real and Personal Property Taxes” and has been presented in Los Angeles, Santa Monica, San Diego, Costa Mesa, Pasadena, San Francisco and Santa Clara. This course is presented in conjunction with Mr. Robert Slavin with Assessment Counseling Services (Westlake Village, California) and Mr. Cris O’Neill, also with Cahill, Davis & O’Neill, LLP.

Mr. Davis has also developed and presented “Advanced Property Tax in California” for Lorman Educational Services, a one-day seminar focusing on particular issues. Mr. Davis’ presentation addressed the assessment of pollution control equipment and contaminated properties; limiting and controlling “discovery” for purposes of assessment; and assessment issues for non-profit entities.

PUBLICATIONS:

- Article: “The Treatment of Obsolescence for Assessment of New Construction Under California’s Proposition 13,” *California Tax Lawyer* (Winter 2008) Vol. 17, No. 1, p. 10
- Paper: “Valuation Issues in the California Property Tax Assessment Appeals Process,” presented at the 38th Annual Litigation Seminar, Appraisal Institute, Southern California Chapter (November 2005)
- Eagle’s Lodge West: California Franchise, Income and Property Tax Issues; *California Tax Lawyer* (Spring 2005) Vol. 15, No. 2, p. 55 (2004 Property Tax Committee Minutes)
- Casenote: *Independent Energy Producers Association v. State Board of Equalization* (California Court of Appeal Upholds Central Assessment of Independent Generating Facilities), Institute for Professionals in Taxation (“IPT”), *Property Tax Report* (June 2005)
- Casenote: *County of Orange v. Bezaire* (Interpreting Propositions 8 and 13 to permit increases in Proposition 8 values (fair market value less their adjusted base-year value) to increase by more than 2% annually), IPT, *Property Tax Report* (April 2004)
- Paper: “Identifying the Sales Transactions from which Discount Rates May Be Derived Does Not Require the Same Degree of Comparability as is Required to Implement the Comparable Sales Approach,” presented at the Western States Petroleum Association Property Tax Educational Forum (September 2001)
- Casenote: *Mola Development Corporation vs. Orange County Assessment Appeals Bd. No. 2* (Accounting for environmental remediation costs for property tax purposes in connection with non-income producing properties), IPT, *Property Tax Report* (June 2000)
- Article: “Valuation Opinion Must be Based on Appraisal Practices Mimicking the Market: A Criticism of *Texaco Producing, Inc. v. County of Kern*,” *California Tax Lawyer* (Winter 2000)

- Eagle’s Lodge West: California Franchise, Income and Property Tax Issues, *California Tax Lawyer* (Summer 1999) (Property Tax Committee Minutes)
- Casenotes: *American Sheds, Inc. vs. County of Los Angeles* (Treatment of operating permit as an intangible for ad valorem tax purposes); *Texaco Producing, Inc. vs. County of Kern* (Examining standards by which the admissibility of appraisal testimony is tested). IPT, *Property Tax Report*, No. 246 (October-November 1998)
- Article: “Interest on California Property Tax Refunds: Dealing With the Problems,” *Journal of Multistate Taxation* (September-October 1994) Vol. 4, No. 4
- Article: “Determining Market Value for Assessment Purposes: Does Purchase Price Really Fix Assessed Value Under Revenue & Taxation Code § 110(b)?” CEB, *Real Property Law Reporter* (November 1990) Vol. 13, No. 8

PUBLISHED APPELLATE OPINIONS:

Fashion Valley Mall LLC v. County of San Diego (2009) 176 Cal.App.4th 871. Buyer utilizing out-of-state counsel purchased a 50% interest in the property, but the transaction was structured so that a 100% change in ownership for property was triggered for tax purposes. Taxpayer rescinded and restructured the transaction to limit the change in ownership to the 50% interest purchased following review and approval by the State Board of Equalization. The rescission was limited to “property tax purposes” at demand of Buyer’s counsel. Court of Appeal held that the limited scope of the rescission rendered it ineffective. The Court of Appeal narrowly construed the concept of an “economic interest” to be limited to fiduciary situations.

Independent Energy Producers Association v. State Board of Equalization (2004) 125 Cal.App.4th 425. The California State Board of Equalization’s assessment jurisdiction over companies generating and selling electricity is restricted to public utilities meeting the test for dedication to a public use for purpose of Article XIII, Section 19 of the California Constitution. The independent electric generators met this test merely because they sold electricity into “the competitive public marketplace.” Also, the Legislature could redefine the concept of “public utilities” by a mere majority vote because the “tax rate” for electric generating facilities did not change.

Jopson, et al. v. Feather River Air Quality Management District (2003) 108 Cal.App.4th 492. An air quality management district's miscalculation of emission reduction credits was an immune misrepresentation by an employee of the public entity.

Watson Cogeneration Company v. County of Los Angeles (2002) 98 Cal.App.4th 1066 (for Amicus Curiae Independent Energy Producers Association). A cogeneration facility built before deregulation should be assessed on the basis of the revenue stream generated pursuant to the power sale agreement in place instead of market power prices. The subject standard offer contract was not an intangible, the value of which should be excluded from the assessment, because power generation projects such as those at issue were the result of government incentives intended to encourage their development.

Exxon Mobil Corporation v. County of Santa Barbara (2001) 92 Cal.App.4th 1347. An offshore oil and gas leasehold and onshore treating facility constituted an integrated appraisal unit. The assessment of the onshore facility as a stand alone facility using the cost approach without regard to the economic obsolescence created by declining oil prices was unfair. The trial court was not restricted to the administrative record on review and properly received additional evidence concerning the SBE's interpretation of its Rule 468.

Montgomery Ward v. County of Santa Clara (1996) 47 Cal.App.4th 1122. An assessor may revise base-year values and levy escape assessments regardless of when the underassessment is discovered unless the assessor has exercised his judgment as to the value of the property. Merely rolling the base-year value forward after the change of ownership does not constitute an exercise of valuation judgment.

Phillips Petroleum Corp. v. County of Lake (1993) 15 Cal.App.4th 180. The base-year value of proved geothermal reserves should be established when such reserves change ownership. The Assessor's mere "misunderstanding" of the law does not support recovery of attorneys' fees.

PROGRAM PARTICIPATION:

Handling Property Tax Assessment Appeals and Related Procedural Issues:

- Moderator, Institute for Professionals in Taxation (“IPT”), the American Bar Association (“ABA”)/IPT Advanced Property Tax Seminar, March 2009, “Litigating Appraisal Issues in a Declining Economy”
- Speaker, IPT, Joint General Session, IPT 30th Annual Conference, June 2006, “Developing a Winning Tax Appeal/Litigation Team (How to be a Good Attorney and Consultant)”
- Moderator, IPT, Joint General Session, IPT 30th Annual Conference, June 2006, “The In-House Property Tax Department Manager – Don’t Get Blown Out, Dude!” (compliance, valuation and audit functions as well as management of internal and external relationships)
- Moderator, IPT 30th Annual Conference, June 2006, “Special Nature of Property Tax Appraisals” (appraisals used in property tax proceedings must conform with applicable statutes and regulations)
- Speaker, 38th Annual Litigation Seminar, Appraisal Institute, Southern California Chapter, November 2005, “Valuation Issues in the California Property Tax Assessment Appeals Process”
- Panelist, Strafford Publications, Inc., June 2005, “Proven Strategies For Reducing Your Corporate Tax Bill” (factors influencing whether an assessment appeal should be pursued)
- Speaker, Western States Petroleum Association Property Tax Educational Forum, September 2003 (review of oil and gas assessment practices following change in ownership in light of *Maples v. County of Kern*)
- Panelist, ABA-IPT Advanced Property Tax Seminar, March 2002 (New Orleans, Louisiana) (coordinating local assessment practices with state regulatory oversight)
- Speaker, County Counsels’ Association Taxation Section, November 2001 (Santa Barbara, California) (pre-hearing procedures in major cases, including pre-hearing “discovery”)

- Speaker, Santa Barbara County Assessment Appeals Board Annual Workshop, Spring 2001 (reviewing changes that might be made to Local Rules to improve the efficiency of hearing major appeals)
- Speaker, Western States Petroleum Association Educational Forum, Fall 1999 (factors governing admissibility of valuation witness testimony at local assessment appeals proceedings)
- Speaker, Western States Petroleum Association Educational Forum, Fall 1998 (review “discovery” procedures in California assessment practice)
- Participant, Eagle’s Lodge West sponsored by the California Bar Association Taxation Section, April 1998 (develop revisions to SBE rules governing assessment appeals board procedures)
- Participant, Eagle’s Lodge West sponsored by the California Bar Association Taxation Section, March 1997 (legislative clarification of statutes of limitation and procedures affecting property tax assessments)
- Speaker, Western States Petroleum Association Educational Forum, Fall 1995 (procedures relating to trial of property tax matters in superior court)
- Panelist, California Manufacturers Association Summer Tax Conference 1995 (enrolling new construction at cost and personal property reporting penalties)
- Speaker, Western States Petroleum Association Educational Forum, Fall 1994 (California interest statutes relating to refunds of property tax)

Recent Developments in Property Taxation:

- Panelist, Western States Petroleum Association Property Tax Educational Forum, September 2001 (hot legal issues, including calculating discount rates and adjusted base-year values for refineries, the status of trial *de novo* and power plant assessment jurisdiction legislation and the availability of injunctive relief to enforce Board-determined base-year values)

- Speaker, IPT Annual Conference, June 2000 (Nashville, Tennessee) (selected property tax developments in the west, focusing on the impact of taxpayer confidentiality protections in assessment appeals and the requirements for admissibility of expert appraisal opinion into evidence)
- Panelist, The 2000 Annual Conference of the California Tax Bars, November 2000 (hot topics in assessments appeals)
- Speaker, ABA-IPT Advanced Property Tax Seminar, March 2000 (New Orleans, Louisiana) (selected property tax developments in the west, emphasizing special assessments)
- Panelist, Tax Night '99: Annual Conference on Current Developments in Taxation, sponsored by the Los Angeles County Bar Association, Fall 1999
- Panelist, Tax Night '97: Annual Conference on Current Developments in Taxation, sponsored by the Los Angeles County Bar Association, Fall 1997
- Panelist, 17th Annual Conference on Current Developments in Taxation, sponsored by the Los Angeles County Bar Association, Spring 1994

Property Taxation of Specific Property Types and Appraisal Techniques:

- Speaker, Institute for Professionals in Taxation (“IPT”), Property Tax Symposium, November 2009 (Tampa, Florida) (“Presenting a Complex Cap Rate Case”)
- Speaker, Western States Petroleum Association Property Tax Educational Forum, August 2009 (“Second Briefing on Richmond, California Refinery Hearing”)
- Speaker, Western States Petroleum Association Property Tax Educational Forum, August 2008 (“Briefing on Richmond, California Refinery Hearing”)
- Speaker, Western States Petroleum Association Property Tax Educational Forum, August 2007 (“*California Minerals v. County of Kern* and Supplemental Assessment of Replacement Wells”)

- Speaker, Western States Petroleum Association Property Tax Educational Forum, September 2002 (assessment of power generation facilities: implications of amended SBE Rule 905 and AB 81)
- Panelist, IPT Sales and Use Tax Symposium, October 2001 (San Antonio, Texas) (“Recent Developments in Sales and Use Tax Affecting the Oil and Gas Industry”)
- Speaker, Western States Petroleum Association Educational Forum, September 2000 (strategies for limiting supplemental assessment of “new construction”)
- Panelist, California Mining Association 1999 Mineral Property Tax Seminar, February 1999 (review legal requirements for discounted cash flows/yield capitalization approaches)
- Panelist, Western States Petroleum Association Educational Forum, Fall 1996 (mock assessment appeal—new construction, co-generation facility secondary recovery program to enhance oil and gas production)
- Speaker, American Bar Association Section of Real Property, Property Tax Committee Annual Meeting 1995 (intangibles assessment in California)
- Speaker, Independent Energy Producers Association, Annual Meeting, Fall 1992 (property tax developments affecting independent energy producers)

Ethics:

- Moderator, ABA-IPT Advanced Property Tax Seminar, March 2009 (New Orleans, Louisiana) (review of IPT Code of Ethics and Standards for Professional Conduct and ABA Model of Rules of Professional Responsibility)

The Impact of Environmental Issues on California Property Tax:

- Chair, Eagle's Lodge West sponsored by the California Bar Association, June 2004 (develop proposals to clarify California property tax laws as they relate to new construction associated with environmental contamination and abatement requirements)
- Panelist, IPT Annual Conference, June 2003 (Phoenix, Arizona) (the effect of environmental issues on property tax: the California perspective)
- Panelist, California Manufacturers Association Summer Tax Conference 1996 (status of revisions being made to State Board of Equalization Assessors' Handbooks and review of issues relating to assessment of pollution control equipment)
- Panelist, American Bar Association Section of Real Property, Property Tax Committee, 7th Annual CLE Conference, Spring 1996 (reducing property taxes on environmentally contaminated property—*Weyerhaeuser vs. Easter*)

OTHER PROFESSIONAL AFFILIATIONS:

- Institute for Professionals in Taxation
- American Property Tax Counsel
- California Taxpayers Association
- California State Outdoor Advertising Association
- International Association of Assessing Officers
- California Bar Association (Member, Taxation Section, State and Local Tax Committee)
- Los Angeles County Bar Association (Member, State and Local Taxation Committee)

EDUCATION: University of California, Los Angeles—Bachelor of Arts (1977)
Loyola Law School, Los Angeles—Juris Doctor (1980)

BAR

ADMITTANCE: California—December 1980

United States District Court—All California Districts—1981

United States Court of Appeal, Ninth Circuit—1983

MISCELLANEOUS:

- Rated “AV” by Martindale-Hubbell (legal ability rating, very high to pre-eminent; general recommendation rating, very high)
- Designated “Southern California Super Lawyer” for Taxation by *Los Angeles Magazine* (2004-2006 and 2008-2010)
- Registered Lobbyist for the Geothermal Energy Association (1993, 1994) - representation limited to rule-making proceedings before the State Board of Equalization affecting the geothermal industry.
- Member, Assessor’s Citizen Advisory Committee’s Tax Agent Panel, Los Angeles County, Office of the Assessor.

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