

September, 1932.

OPINION No. 1590.

REAL PROPERTY TAXATION; AP-
PEAL:

Upon appealing from an assessment for real property taxation purposes to a board of review under Section 38, Act 40, Second Special Session of 1932, the taxpayer must state the valuation claimed by him.

Honorable Albert Waterhouse,
Tax Commissioner,
Territory of Hawaii.

Sir:

On July 2, 1932, you requested the advice of this office as to whether or not a taxpayer when taking an appeal from the assessment of his real property to a board of review under Section 38 of Act 40 of the Second Special Session of 1932, must state the valuation claimed by him to be correct.

The difficulty which prompted you to ask this question arises from the fact that said Section 38 provides among other things that an appeal from an assessment to the board of review may be made by filing a written notice of such appeal with the assessor on or before April 20 of the assessment year, and that "any notice, however informal, stating disagreement with the assessment shall be sufficient." The same section then goes on to require that if the appeal is made direct to the tax appeal court then the notice of appeal must contain, among other things, "(b) The valuation claimed by the taxpayer". An examination of this section alone would ordinarily lead one to the conclusion that if the appeal is taken to the board of review in the first instance the

taxpayer need not state the valuation claimed by him. However Section 21 of the same Act provides, among other things, that—

"In determining such rate the aggregate *value* of real property as assessed for the purposes of this tax for the current year, with calculations made as of April 20 of assessed values of the current year, shall be taken as a basis. In all cases where appeals are unsettled, the values used shall be the lowest *claimed by the taxpayer in each case* plus fifty per cent (50%) of the value in dispute. "

This provision in our opinion by implication requires that even in an appeal to the board of review, the taxpayer must state the value claimed by him.

Respectfully,

C. NILS TAVARES,
Second Deputy Attorney General.

APPROVED:

H. R. HEWITT,
Attorney-General.