



## STATE BOARD OF EQUALIZATION

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September 21, 1989

Dear Mr. and Mrs.

This is in response to your letter of September 6, 1989, requesting assistance in receiving the benefits of Revenue and Taxation Code section 69.5. In order to better understand the facts of your case, I have discussed your letter with Mr. Jim Dodd, of the Ventura County Assessor's office, with whom you have already conferred on this question.

As I understand it, you have lived in your original home, which is a duplex, for 11 years. You and your family lived in one-half of the duplex and, until 1988, you rented out the other half. In 1989, your daughter and her husband,

needed a place to live so you let them reside in the other half rent free because "our house is too small for all of us." You are now selling your duplex for \$420,950 and purchasing a new single-family residence for the same price. You have been advised by Mr. Dodd that you do not qualify for the section 69.5 benefit, and therefore cannot transfer the base year value of your original home to the replacement dwelling because you do not satisfy the "equal or lesser value" requirement. You ask that the State Board of Equalization "reconsider" this determination.

Please let me first explain that the staff of the State Board of Equalization acts only in an advisory capacity in matters involving change in ownership and the transfer of base year values pursuant to section 69.5. The authority to determine whether or not you qualify for the benefits of section 69.5 rests solely with the Ventura County Assessor.

As, I believe Mr. Dodd explained to you, the reason you do not satisfy the "equal or lesser value" requirement is that only the value of the portion of the duplex in which you reside can be considered for purposes of this comparison. The provisions of the amendment to section 2 of article XIII A of the California Constitution, known as Proposition 60, which was adopted by the people in November of 1986 expressly provides,

Mr. and Mrs. . . .

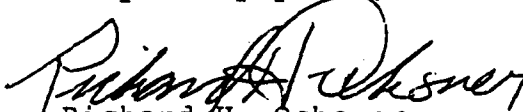
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in part, that for purposes of the provisions permitting the transfer of base year value for persons over age 55, a two-dwelling unit shall be considered as two separate single-family dwellings. The implementing provisions of the law found in Revenue and Taxation Code section 69.5 defines the term "original property" in subdivision (g)(4) and expressly provides therein that each unit of a multiunit dwelling shall be considered a separate original property. These provisions make it very clear that the Assessor must view your duplex as two separate properties. Only that portion of the property in which you resided as your principal residence could qualify under section 69.5. Further, only that portion of the property could be considered for purposes of the "equal or lesser value" comparison. Assuming that the value of the two units in your duplex were about equal, it seems clear that the Assessor is required to deny the benefits of section 69.5 because the "equal or lesser value" test is not satisfied.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



Richard H. Ochsner  
Assistant Chief Counsel

RHO:cb  
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cc: Hon. R. J. Sanford  
Ventura County Assessor  
Mr. John W. Hagerty  
Mr. Verne Walton