F3
Denise Friedman

PRESENTATION OF DENISE FRIEDMAN (SAN DIEGO HOMEOWNER)

Honorable Members of the Board, my name is Denise Friedman. I am here to ask for your help with an issue involving Proposition 90.

In 2011, I sold my home of 32 years in Los Angeles, and bought a home in San Diego of equal or lesser value. Using Proposition 90, which is section 69.5 of the Revenue and Taxation Code, I planned to transfer the base year value from my Los Angeles home to my San Diego home, so that my property tax expense would not increase.

Although I met the statutory requirements, my Proposition 90 claim was denied because of incorrect guidance that the Board issued to assessors. This guidance began as a position taken by a lawyer for the Board in an annotation in 1988, and found its way into the Assessors' Handbook. Because of this guidance, my annual property tax bill is more than double the amount I expected it to be.

As I will explain, the position taken 30 years ago is incorrect. And although it is not binding on anyone, it has been outstanding for so long that the Assessors feel they must follow it. I am here to respectfully request that the Board correct this erroneous position.

In 2011, after my husband died and after my children had started families of their own, I sold my home in Los Angeles that my late husband and I had owned for 32 years, and moved back to San Diego where I grew up. In 2011, the market value of my home in Los Angeles was slightly more than double its assessed value. Buying a new house having the same value would cause my annual property tax expense to more than double.

STATE BOARD OF EQUALIZATION

~~Appeal~~ Name: Property Taxpayers Bill of Rights
~~Case ID:~~ Denise Friedman ITEM #. F3
Date: 5/24/16 Exhibit No: 5.9
TP FTB DEPT PUBLIC COMMENT

10047620.2
226250-10001

This is a consequence of Proposition 13 that makes it difficult for seniors living on a fixed income to relocate. This is why Proposition 90 was passed. Prop 90 allows seniors to relocate or downsize without increasing their annual property tax expense. It is a one-time benefit.

Specifically, Prop 90 provides that a person over 55 years of age may transfer the base year value of an original property to a *"replacement dwelling of equal or lesser value that . . . is purchased or newly constructed by that person as his or her principal residence within two years of the sale . . . of the original property."* I sold my Los Angeles house and purchased my San Diego house two months later, thus meeting the statutory requirements.

However, my claim was denied and my property tax bill more than doubled. Why?

The house that I bought in San Diego was the house I grew up in. In 2009, my father died. He left his home in San Diego to me and my three siblings in equal shares. My siblings and I had been holding on to it because we wanted to keep it in the family. I reached an agreement with my siblings to purchase their 75% at fair market value. In May of 2011, I sold my home in Los Angeles. In July of 2011, I purchased the other 75% of my childhood home, and became the 100% owner. To be sure, the market value of the San Diego house was less than the market value of Los Angeles house. So why was my claim denied?

30 years ago, a BOE lawyer took the position that the word "purchased" in the statute meant that a person had to purchase 100% of the replacement property. Thus, since I inherited 25% of the San Diego house and only purchased 75% of it, my claim was denied. This position is wrong. It conflicts with the statute and is not consistent with the policy of Prop 90.

First, the plain language of Prop 90 required me to purchase a replacement dwelling of equal or lesser value than my original property. This is what I did. Nothing in the statute says that I had to purchase 100% of the replacement dwelling in order to qualify for relief.

Second, nothing about the policy behind Prop 90 requires a senior to purchase 100% of the replacement dwelling. The legislature enacted Prop 90 to provide relief to seniors who wanted to downsize and relocate. The legislature did not intend seniors to "trade up" and move into nicer homes at the expense of a county. Indeed, the "equal or lesser value" requirement prevents seniors from "trading up" – buying a more expensive home while continuing to pay property taxes based on the value of the old house. The policy goals are achieved by requiring the *value* of 100% of the purchased house to be less than or equal to the *value* of 100% of the house that was sold. I purchased 75% of a property, and the value of 100% of the property was less than the value of the house I sold. I engaged in a transaction that is exactly what the legislature intended.

Under these facts, I am entitled to transfer my base year value under the statute. The Board can easily rectify this situation by repudiating the prior erroneous staff position. I have spent four years trying to get my claim approved, and in doing so I learned that I am not the only person that has been denied Prop 60 and 90 relief for this reason. The staff at the San Diego County Assessor's office agrees that the Board's 30-year old interpretation does not automatically follow from the statute, and that the result is unfair to those who are trying to buy out their co-owners. Accordingly, I am here to ask that you fix this problem by asking your staff to revise the Assessors' Handbook, and to acknowledge that the prior interpretation is not correct so that the San Diego Assessor will grant my claim.