

Memorandum

To: Honorable John Chiang, Chair
Honorable Claude Parrish, Vice Chairman
Ms. Betty T. Yee, Acting Member
Honorable Bill Leonard
Honorable Steve Westly

Date: March 23, 2006

From : Kristine Cazadd 
Chief Counsel, Legal Department

Subject: **Public Hearings – March 28-29, 2006 Board Meeting**

Proposed Rule 140 - Welfare Exemption Requirements for Low-Income Housing Properties: Cross-Reference Correction

During the statutory review process an erroneous cross-reference was recently discovered in proposed Property Tax Rule 140, which is set for public hearing at the Board meeting on March 28, 2006. The cross-reference in subdivision (a)(3), to “subdivision (c) below”, is erroneous, and we determined that correction was needed.

To rectify the erroneous cross-reference, staff recommends that the reference to subdivision (c) be deleted, and replaced with rent levels that do not exceed those prescribed by section 50053 of the Health and Safety Code. This language tracks that of Revenue and Taxation Code section 214, subdivision (g)(2)(A), which this proposed rule will implement.

As so revised, proposed Property Tax Rule 140, subdivision (a)(3) would read:

(3) “Other legal document” means a document that is adopted as a resolution or statement of policy by an organization’s board of directors, or executed by an organization’s chief executive officer, provided that the board of directors has delegated this authority in writing to the chief executive officer, that restricts the property’s use to low-income housing, such that a minimum of 90% of the units of the property are made continuously available to or occupied by lower income households at rent levels defined in subdivision (e) that do not exceed those prescribed by section 50053 of the Health and Safety Code.

Any motion by the Board to adopt the published text of Property Tax Rule 140 should reference this correction for the erroneous cross-reference.

If you have any questions on this matter, please contact Mr. Robert Lambert, Acting Assistant Chief Counsel, at (916) 324-2579, or Senior Tax Counsel IV Sophia Chung at (916) 445-8485, or Tax Counsel Nancy Vedera at (916) 322-3829.

KEC:eb

Rules/140, 140.1, 140.2, 143/Welfare.doc

cc: Mr. Ramon J. Hirsig, MIC:73
Mr. David Gau, MIC:63
Mr. Dean Kinnee, MIC:64
Mr. Robert Lambert, MIC:82
Ms. Mickie Stuckey, MIC:62
Mr. Stanley Siu, MIC:61
Mr. Todd Gilman, MIC:70
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Proposed Property Tax Rule 140: Erroneous Cross-Reference in Subdivision (a)(3)

As drafted, and Noticed, subdivision (a)(3) makes reference to rent levels “as defined in subdivision (c) below.” (See line 31 of the text.) Subdivision (c) however, does not relate to rents, but rather, tax credits and government financing. Therefore, staff recommends that the erroneous reference to subdivision (c) be deleted and replaced with rent levels that do not exceed those prescribed by section 50053 of the Health Safety Code. This language tracks that in Revenue and Taxation Code section 214, subdivision (g)(2)(A), the section of the Revenue and Taxation Code this rule will implement.