160.0002 **Assessor's Records.** After a property is sold, the former owner is no longer considered an "assessee" of that property and does not have access to the assessor's records pertaining to the property, when owned by the new owner, that are statutorily held to be confidential. "Assessee" is defined in Revenue and Taxation Code section 23 as "the person to whom the property or a tax is assessed" and is understood to mean the current owner. C 3/6/98. (M99-2)

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March 6, 1998

Honorable Glenn Gray
County Assessor
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009-1270

Re: Revenue and Taxation Code section 408[1]

Dear Mr. Gray:

On February 26, 1997, you wrote to [illegible], formerly Deputy Director for Property Taxes, regarding the release of information to prior owners. For a variety of reasons, we are just now responding. We apologize for the delay and hope that you will find this response useful.

You describe a fact situation wherein a recent purchaser of residential property who became the assessee on the 1997-98 assessment roll, discovered some damage (cracks in the concrete slab) and asked to inspect the assessor's records regarding the property. Subsequently, a representative of the prior owner asked to see the same records under the "Federal Freedom of Information Act." Your staff refused to allow the representative of the prior owner to inspect the records; you ask our opinion on the action taken by your staff. As explained more fully below, it is our opinion that your staff acted properly in denying access to those records to the representative of the prior owner.

Your letter makes reference to section 408, subdivision (e) which provides:

> (e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narration's and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

[1] All statutory references are to the Revenue and Taxation Code unless otherwise specified.

> (2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.
> (3) Except as provided in Section 408.1, an assessee, or his or her designated representative, shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

1. You inquire: Is the most recent purchaser considered the only assessee under the circumstances defined above?

Yes. According to your letter, the recent purchaser is the assessee on the 1997/98 roll. Section 408, subdivision (e)(1) provides that only the assessee or the designated representative of the assessee may obtain certain information. "Assessee" is defined in section 23 as "the person to whom the property or a tax is assessed" and is understood to mean the current owner. Thus, prior to enrollment, an assessee may request assessment information pursuant to section 408, subdivision (e)(1). After enrollment, an assessee may request assessment information pursuant to section 408, subdivision (e)(2).[2]

We paraphrase your second and third questions as follows:

2. If a prior owner is the assessee appearing on the current (1996-97) assessment roll, can we consider the recent purchaser the "assessee" for purposes of section 408, subdivision (e)? If so, what is the significance of section 4922?

Yes, the recent purchaser is the assessee as indicated in the answer above. The assessment roll is prepared pursuant to section 601 et seq. and is printed and available after July 1. The assessment roll contains the names and addresses of assessees and other property information. The prior owner was the assessee on the 1996-97 assessment roll and thus, he could request assessment information for that year pursuant to section 408, subdivision (e)(2). For that year, he is the assessee for purposes of section 408, subdivision (e). As indicated in the answer to 1, above, however, he is not the assessee for the 1997-98 assessment roll.

You have inquired about section 4922 and the application of that statute to the facts at hand. Section 4922 uses a different definition of "assessee;" that section provides that an assessee, as used in section 4922, "refers to the assessee as shown on the last roll on which the unintended property appears." Section 4922 is in Part 7 of the Revenue and Taxation Code, which relates to the redemption of tax defaulted property. By its own terms, the definition of assessee in section 4922 is limited to that section in Part 7 and is not applicable hereto.

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[2] From the point of view of the current owner, the time period "prior to enrollment" is that time period after the purchase and prior to being listed on the roll as an "assessee." "After enrollment" is that period of time when an assessee owns the property and has been listed as the "assessee."

Your letter also makes reference to the Federal Freedom of Information Act, that the representative of the prior owner requested information pursuant to that act. That federal act is set forth in 5 U.S.C.S. section 552 et seq. and applies to federal agencies. The California Public Records Act (Government Code section 6250 et seq.) is a similar act applicable to government agencies in California; it allows for public access to many writings containing information relating to the conduct of the public's business used or retained by state and local government agencies. However, certain records are expressly declared exempt from the disclosure requirements of the act. For example, records are exempted under the act where their disclosure is exempted or prohibited pursuant to any provision of state or federal law. See 55 Cal Jur 3rd, Records and Recording Laws, section 7. Disclosure in the case herein is prohibited by section 408, subdivision (a). On the other hand, certain assessors' records are open to public inspection, as for example, described in sections 408.1, 408.2 and 408.3.

Again, we apologize for the delay in responding to your question.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

Janet Saunders
Tax Counsel

JS:jd
property/precednt/confinfo/1998/98001.js

cc: Mr. Richard Johnson, MIC:63
Mr. Rudy Bischof, MIC:64
Ms. Jennifer Willis, MIC:70

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PROPERTY TAXES