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Executive Director

January 28, 2000

Honorable Robert C. Petersen, Assessor
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Re: Revenue & Taxation Code Section 69.5

Dear Mr. Petersen:

This is in reply to your letter to Assistant Chief Counsel Larry Augusta dated December 22, 1999 regarding the qualification of a transfer under Revenue and Taxation Code Section 69.5 when a homeowner purchases a licensed mobilehome and an interest in a resident-owned mobilehome park as his replacement property.

As discussed further below, it is our opinion that an allocation of the original property's base year value should be made up to but not exceeding the market value of the land of the replacement property. Since the homeowner purchased a licensed mobilehome, as opposed to a mobilehome included on the local property tax roll, only the land portion of the property would qualify for the transfer of the base year value. However, if as you proposed, the mobilehome were first transferred to the local property tax roll, both the mobilehome and the land would qualify for the transfer of the base year value to the replacement property.

Factual Background

As you detailed in your letter, a homeowner sells his conventionally-built home for $327,000. The homeowner purchases an interest in a resident-owned mobilehome park and a licensed mobilehome for $130,000 and timely files for the Proposition 60 transfer of the base year value.

Law and Analysis

In any Section 69.5 transaction, both the "original property" and the "replacement property" must meet certain requirements in order to qualify for the transfer of the base year value. One of the requirements of an "original property" is the requirement of the second paragraph of subdivision (e) of Section 69.5, which provides that "This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or

Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property." Based upon the facts provided, the original property, a conventionally-built home, will meet this requirement as the property will be subject to reappraisal upon its sale.

Regarding the requirements of a "replacement dwelling", subdivision (c)(2) of Section 69.5 states in part that "If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate."

In addition, subdivision (b)(5) of Section 69.5 provides in part that ". . . the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling."

Finally, subdivision (g)(3) of Section 69.5 defines a "replacement dwelling" to include "a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated."

In light of the foregoing, it has been our opinion that as long as a licensed mobilehome serves as a place of abode, the reasonable land site on which it is located may receive the benefits of Proposition 60 and Section 69.5. Although subdivision (c)(2) does not specifically provide for the transfer of the base year value of a claimant's original property to the land portion only of the replacement dwelling, the subdivision does not preclude it. Subdivisions (b)(5) and (g)(3) emphasize that the purchase of a replacement dwelling, whether the replacement dwelling is real property or personal property, includes any land owned by the claimant on which the abode is situated.

As to the value to be transferred, transfer of the original property's base year value should be made up to, but not exceeding, the market value of the land and any miscellaneous improvements of the replacement property. If and when the licensed mobilehome is converted to local property taxation, any unallocated and unenrolled remainder base year value of the original property, if there is any, should be reallocated based on the original property's base year value allocation, and then enrolled.

Where a person has chosen to retain the licensed status of his mobilehome, he will continue to pay registration and license fees while at the same time receiving no actual benefit from Section 69.5, even though he applies for and is found to be a qualified claimant. This occurs because the base year values of the land and improvements of his original property will be enrolled as the base year values of the land and miscellaneous improvements of the replacement property up to the market value of these replacement property items. Thus, the result is that such a claimant, as long as his mobilehome is licensed, will be paying property taxes at the same level as

if a new market value base had been established for the land and miscellaneous improvements of his replacement property.

In your letter you asked whether the prior transfer of the mobilehome to the local property tax roll would produce a different result. If the mobilehome had been transferred to the local property tax roll prior to the filing of a Section 69.5 claim, then both the mobilehome and the land would qualify for the transfer of the base year value to the replacement property. In such a case, Sections 5802 and 5803 would apply to the mobilehome as property subject to property tax assessment.

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,

Anthony S. Epolite

Anthony S. Epolite
Tax Counsel

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cc: Mr. Richard Johnson, MIC:63
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