200.0111 **Replacement Property.** A person 55 years of age or older who sells a single family property occupied as his/her principal residence may purchase a duplex as a replacement dwelling and have the base year value of the former transferred to his/her portion of the duplex.

In determining whether or not the base year value may be transferred, all of the requirements of Revenue and Taxation Code Section 69.5 must be satisfied. The value equivalency requirement is satisfied if the value of the portion of the duplex occupied as a principal residence is equal to or less than the value of the original residence. The remainder of the duplex would be appraised at its full cash value as of the date it sold, and that value would become the new base year value for that portion of the duplex.

The transfer of a base year value from a duplex or other multi-unit structure to a single family dwelling may also occur, provided all of the Section 69.5 requirements are met. C 10/10/88.

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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Controller, Sacramento

CINDY RAMBO
Executive Director

November 10, 1988

Dear Mrs. [illegible]:

This is in furtherance of our conversations concerning property tax consequences/transfers of base year values for homeowners who are 55 years of age or older and who sell their respective principal residences and thereafter acquire replacement dwellings (Revenue and Taxation Code section 69.5, copy enclosed).

Section 69.5 allows a qualified homeowner to transfer the base year value of his or her principal residence to a replacement dwelling provided that:

1. Both properties are located in the same county.

2. As of the date of sale of the original principal residence, the owner/seller is at least 55 years of age.

3. The original principal residence was eligible for the homeowners' exemption from property taxation when sold.

4. The replacement dwelling is purchased on or after November 6, 1986 <u>and</u> within two years of the sale of the original principal residence.

5. The replacement dwelling's value is equal to or less than the value of the original principal residence.

6. The owner/seller has not previously been granted the property tax relief provided by section 69.5.

7. The owner/seller files a claim for relief under section 69.5 within three years of the date the replacement dwelling is purchased.

With respect to the sale of a principal residence and the purchase of a duplex as a replacement dwelling, in our

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September 11, 1987, Letter to Assessors No. 87/71, Proposition 60, Chapter 186, Statutes of 1987 (section 69.5), question and answer 11 states:

> "Can otherwise qualified co-owners, 'A' and 'B', sell original property 'X' (a duplex which they occupy one side each), acquire a single-family replacement dwelling each, 'Y' and 'Z', and still qualify?
>
> "Yes, but the value comparison must be made between their respective portions of original property 'X' as compared to their replacement dwellings, 'Y' and 'Z'."

In instances in which we have been asked about a single owner's sale of a principal residence and the purchase of a duplex as a replacement dwelling, our response has been similar as to the value comparison. As indicated below, the value of the original principal residence must be compared to the value of the portion of the duplex replacement dwelling used by the owner as his or her new principal residence:

> How would value comparisons be made when either the original principal residence or the replacement dwelling, or both, are multiple use structures? For example, either the original principal residence or the replacement dwelling may be a duplex in which the owner maintains his or her principal residence.
>
> Our approach is to limit the comparison to the property actually occupied by the owner as his or her principal residence. Initially, section 2 of article XIIIA of the California Constitution, which authorized Revenue and Taxation Code section 69.5, states that a two-unit dwelling will be treated as two single-family dwellings.
>
> Further, section 69.5(a) provides that a person over age 55 who resides in property eligible for the homeowner's exemption may transfer the base year value of "that property" to any replacement dwelling of equal or lesser value. The terms "replacement dwelling" and "original property" are both defined as a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by an owner as his or her principal place of residence and any land owned by the owner on which the building is situated. This definition parallels but is not identical to the definition of "dwelling" found in Revenue and Taxation

Code section 218 relating to the homeowner's exemption. The latter definition has been interpreted by the Board as being applicable only to the portion of the structure actually occupied as the principal residence. The section 69.5 definitions of "replacement dwelling" and "original property" seem to capture this same concept by including the requirement that the property be owned and occupied by the owner as a principal residence.

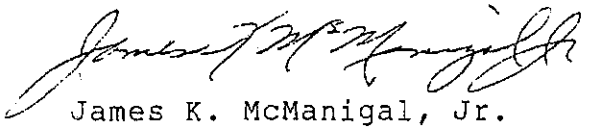
This conclusion is also supported by section 69.5(a), (b)(2), and (b)(4) which require, among other things, that both the original principal residence and the replacement dwelling be eligible for the homeowner's exemption. In the case of a duplex with the owner residing in one unit, only the owner-occupied portion is eligible for the homeowner's exemption, according to our previous interpretations. Thus, in addition to the occupancy requirement found in the definitions of "replacement dwelling" and "original property", there is an additional homeowner's exemption requirement which also limits the applicability of the provision and supports the conclusion that the property referred to in the definitions is limited to the portion of property actually occupied as a principal residence.

Accordingly, upon the sale of your original principal residence and the subsequent purchase of a duplex as a replacement dwelling, one side of which you occupy as your principal residence, in our view, the full cash value or fair market value of your original principal residence should be compared to the full cash value or fair market value of the side of the replacement duplex you occupy as your principal residence for purposes of requirement 5, above, in the manner contemplated by section 69.5. Assuming that such value of your side of the replacement duplex is equal to or less than such value of your original principal residence, and assuming that the other requirements, 1 through 4 and 6 and 7, above, are met, you should be able to obtain the benefits of section 69.5, namely, the transfer of the existing factored base year value of your original principal residence to the side of the replacement duplex which you occupy as your principal residence.

As to the side of the replacement duplex which will be occupied by others, the full cash value or fair market value of that side also will be determined as of the date of sale/purchase; and that value will become the new base year value for that side of the duplex.

Since local property taxation is a function of and administered by county assessors and other county officials, the views expressed in this letter are advisory only and are not binding upon the assessor of any county. Thus, you may wish to consult with the Sacramento County Assessor's Office in order to confirm that the side of the replacement duplex which you occupy as your principal residence will be assessed in a manner consistent with the conclusions stated hereinabove.

Very truly yours,



James K. McManigal, Jr.
Tax Counsel

JKM:cb
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Enclosure

cc: Mr. Roger G. F. Fong
Sacramento County Assessor