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August 13, 1992

Honorable Gregory J. Smith  
San Diego County Assessor  
1600 Pacific Highway, Room 103  
San Diego, CA 92101-2480

Dear Mr. Smith:

Your letter of May 4, 1992, to Verne Walton requesting our advice on whether certain transfers of mobile home park spaces qualify for an exclusion from change in ownership has been referred to this office. I sincerely regret that current workloads have made it necessary to delay our response to your inquiry.

Based upon the information provided with your letter, I understand that the Mc Park was acquired by the City of Escondido. On January 15, 1990, the City notified your office that the park was being purchased with the intent to sell the spaces to the individual tenants. On February 28, 1991, the mobile home park was acquired by the City. On December 15, 1991, the City sold the first mobile home park space to a tenant. Although not stated, I understand from the materials submitted that at least 51 percent of the mobile home park rental spaces were not transferred to individual tenants of the park within one year after the transfer of the park to the City on February 28, 1991.

Your letter requests that we answer the following two questions:

1. By what date must the City complete the transfer of 51 percent of the spaces to the individual tenants to qualify for exemption?
2. Are tenants who moved in after the City purchased the park eligible for the exclusion provided that the date in question No. 1 are met?

We understand that there is a difference of opinion between the County and the Escondido City Attorney, David R. Chapman, who contends that pursuant to the provisions of Revenue and Taxation Code sections 62.1(b) and 6.2, both the transfer of the mobile

home park to the City and the transfer by the City of individual spaces to park tenants are excluded from change in ownership.

A mobile home park located within the boundaries of a city becomes exempt from property taxation when acquired by that city. California Constitution Article XIII, Section 3(b); Revenue and Taxation Code section 202(a)(4). Thus when the M

Park was acquired by the City of Escondido on February 28, 1991, the property became exempt and any taxes levied thereon were subject to cancellation pursuant to the provisions of Revenue and Taxation Code sections 4986 and 5081, and following.

Nevertheless, absent an applicable exclusion, the transfer of the fee title in the mobile home park to the City would constitute a change in ownership within the meaning of Revenue and Taxation Code section 60, which defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Revenue and Taxation Code section 75.10, subdivision (a) requires that whenever a change in ownership occurs the assessor shall appraise the property changing ownership at its full cash value on the date the change in ownership occurs. The value so determined shall be the new base year value of the property.

It is clear that this duty is not affected by the fact that the property became exempt from taxation upon acquisition. Revenue and Taxation Code section 75.31 requires that the assessor provide a notice of the new base year value which indicates not only the new base year value but also the amount of exemption. See also Revenue and Taxation Code section 75.40 which requires that the assessor transmit to the auditor both the new base year value and the amount of any exemption. Property Tax Rule 252, subdivision (b), expressly recognizes that the property tax roll may include the value of exempt property. These provisions describe a statutory scheme under which the assessor is required to reappraise and establish a new base year value whenever a change in ownership occurs, even though that property may be exempt from taxation.

The facts indicate that there are two types of transfer which may be subject to exclusion from change in ownership. The first transfer is the acquisition of the park by the City on February 28, 1991. The second type relates to transfers of individual mobile home park spaces to existing tenants. In each case there is a specific change in ownership exclusion which may be applied.

Revenue and Taxation Code section 62.2, in pertinent part, excludes from change in ownership any transfer of a mobile home park to a nonprofit corporation, stock cooperative corporation, or other entity, including a governmental unit, if, within one year after the transfer, at least 51 percent of the mobile home park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of section 62.1. (It should be noted that section 62.2 was amended by Chapter 442 of the Statutes of 1991, effective September 26, 1991. For purposes of this analysis I have assumed that these amendments are applicable even though they were added after the date the City acquired the park.) I understand that at least 51 percent of the rental spaces were not transferred within the one year time limit as required by section 62.2. (There is no information as to whether the other requirements of this section have been satisfied.) Since the one year time limit of section 62.2 was not satisfied, the transfer of the mobile home park to the City may not be excluded from change in ownership under the terms of this section. Further, I am aware of no other provisions in the Code which would provide an exclusion for the transfer. Accordingly, I conclude that the transfer of the park to the City in February of 1991 constituted a change in ownership and, as a result, the assessor would be required to reappraise the property at its full cash value as of the date of transfer.

Revenue and Taxation Code section 62.1, subdivision (b), provides, in part, that change in ownership does not include any transfer between January 1, 1985 and January 1, 1994, of rental spaces in a mobile home park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization, as described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. Assuming that the transfers of the individual rental spaces to the tenants comply with these requirements, the transfers would be excluded from change in ownership. If the transfers of the individual spaces are excluded from change in ownership then those spaces would retain the base year value of the previous owner, the City of Escondido. Since the transfer to the City did not qualify for exclusion under section 62.2, however, the City's base year value would be based upon the value as of the February change in ownership date. The tenants could not receive their rental spaces with the original owner's base year value since the transfer to the City did not qualify for exclusion.

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I believe the foregoing discussion responds adequately to your first question. Your second question relates to the requirement in section 62.1(b) that at least 51 percent of the spaces be "purchased by individual tenants renting their spaces prior to purchase". You ask whether tenants who moved into the park after it was purchased by the City are eligible for the section 62.1 exclusion. As indicated above, the transfer of rental spaces to individual tenants may qualify under the terms of section 62.1 even though the transfer of the park to the City does not qualify under section 62.2. Further, the requirement that 51 percent of the spaces be purchased by individual tenants renting their spaces prior to purchase means only that the persons buying the spaces must have been tenants prior to their purchase of the rental space. The language of this subdivision does not require that the buyer have been a tenant prior to the date that the City acquired the mobile home park. Such an interpretation would be inconsistent with the language used which references "purchase" in connection with rental spaces while other portions of the section refer to the "transfer" of the mobile home park. It should also be recognized that subdivision (b) of section 62.1 was developed independently of section 62.2. Subdivision (b) applies to transfers of individual rental spaces to existing tenants by the original park owner. There is no necessity for the transfer of the park to an intermediary organization as described in section 62.2. Thus, based both on the language of subdivision (b) and on its legislative history, I find no basis for interpreting the word "purchase" to mean anything other than purchase of the individual rental space.

The views expressed in this letter are, of course, advisory in nature and are not binding upon any assessor. Our intention is to provide courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



Richard H. Ochsner  
Assistant Chief Counsel

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cc: Mr. John W. Hagerty  
Mr. Verne Walton