220.0464 **Partition.** Owners of undivided interests in real property may partition the property without causing a reappraisal provided each owner obtains ownership of property that is equal in value to the undivided interest previously held. In determining the value of the property owned after partition, the assumption of a mortgage or other debt should be ignored. C 7/31/86.

STATE OF CALIFORNIA

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Executive Secretary

July 31, 1986

[illegible]

D[illegible]

Re: Proportional Interests in Partition

This is in response to your letter dated June 3, 1986, in which you ask our opinion on whether the following transaction will constitute a change in ownership. The facts as set forth in your letter are as follows:

Two couples purchased a parcel of property as tenants in common with each owning a 50 percent undivided interest. Before 1978, three units which were approved for condominiums were constructed on the property, however, no separate parcels were created. The parties now intend to transfer two of the units and all of the remaining debt to one couple, and to transfer the remaining unit to the other couple. As an example of the proposed transaction, you assume that the three units are each worth $100,000 for a total value of $300,000 and the debt against all three is $100,000. One couple will take two units worth $200,000 and the debt of $100,000, and the other couple will take a unit free and clear with a value of $100,000. You ask whether such a partition would be excluded by Section 62(a)(1) of the Revenue and Taxation Code.

Revenue and Taxation Code Section 62(a)(1) provides that any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common, is not a change in ownership. Therefore, the issue to be decided is whether assumption of a lien on the real property constitutes part of a proportional interest of the coowners in the property for the purposes of section 62(a)(1).

Revenue and Taxation Code Section 60 defines what interest in property must be either retained or transferred for purposes of

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Memorandum
[illegible]