



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
TELEPHONE (916) 327-2455
FAX (916) 323-3387
www.boe.ca.gov

JOHAN KLEHS
First District, Hayward

DEAN ANDAL
Second District, Stockton

CLAUDE PARRISH
Third District, Torrance

JOHN CHIANG
Fourth District, Los Angeles

KATHLEEN CONNELL
State Controller, Sacramento

JAMES E. SPEED
Executive Director

October 5, 2000

Honorable Gary W. Freeman
San Joaquin County Assessor
24 South Hunter Street
Stockton, Ca.. 94202-3273

Attn: Debra Wilson
Chief of Standards

Dear Ms. Wilson,

I am responding to your letter of April 27, 2000, addressed to my colleague Lou Ambrose, regarding a request for access to Assessor's files by the county's Community Development Department (building department) Code Enforcement Division. Please excuse the delay in responding.

The Code Enforcement Division was seeking information in your files in the prosecution of a property owner for building code violations. You asked whether this agency would be considered a "law enforcement agency" within the meaning of Revenue and Taxation Code section 408, subdivision (b).¹

We have concluded in past opinions that personnel from the building inspection division of a county planning department seeking appraisal files for the purpose of code enforcement are not "law enforcement" agents for purposes of section 408, subdivision (b). (See Property Taxes Law Guide, Vol. 3, Annotations, Annot. No. 260.0080, based on a letter dated October 13, 1983, copy enclosed.) We would reach the same conclusion with respect to the Community Development Department and its Code Enforcement Division.

Section 408(b) specifies the agencies and departments to which the assessors are mandated to disclose information, furnish abstracts, or permit access to records. With the exception of "law enforcement agencies, the county grand jury and the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code" only state agencies are provided mandatory access to assessors' files. If the term "law enforcement agencies" were interpreted to include the county building department and/or its divisions, there would be little

¹ Section 408(b) is the disclosure provision applicable to San Joaquin County, section 408.2(c) applies only to Los Angeles County.

logic in specifying any agencies, because most state and county agencies administer and participate in the enforcement of laws.²

The California Courts have held that the adjective "law enforcement" is to be narrowly construed to mean having traditional law enforcement powers to enforce the penal statutes of this state. (See State of California Ex. Rel. Division of Industrial Safety v. Superior Court (1974) 43 Cal. App. 3d 778, at page 784.) Almost any agency is empowered to administer and enforce some law, regulation or ordinance. However, such law enforcement power does not qualify the agency to claim it is a "law enforcement agency." Traditional law enforcement agencies would be, for example, local police departments, California Highway Patrol, alcohol and drug enforcement agencies, local sheriff departments, federal marshals, Federal Bureau of Investigation, Federal Drug and Alcohol Enforcement Agencies, the California Attorney General's investigative staff, and any other similar local, state, or federal agency enforcing the penal laws of this state or of the federal government

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 in your letter and are not binding on any person or public entity.

If you have any further questions on this matter, feel free to call me.

Sincerely,

/s/ Susan Scott

Susan Scott

SAS:lg
Precedent/Miscelan/00/10sas.doc

Enclosures

Cc: Mr. Richard Johnson, MIC: 63
Mr. David Gau, MIC: 64
Mr. Larry Augusta
Ms. Jennifer Willis, MIC:70

² Planning agencies, established under Government Code section 65100, are also entitled to information from assessors' records as required for agency planning functions, under Government Code section 65106. (See Annot. No. 260.0075, C 3/24/88.)