



Memorandum

to : Mr., Robert H. Gustafson

Date : July 29, 1985

From : Richard H. Ochsner

PHO

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G. A. LICAL

Subject: Supplemental Assessments--Appeal Rights

This will inform you of a conversation I had Thursday with Marge Haggerty, a deputy in the Sacramento County Counsel's office (440-5505), regarding the appeal rights of a second owner where a portion of the supplemental assessment arising from the first owner's purchase of the property becomes a secured lien against the real property pursuant to Revenue and Taxation Code section 75.54(c).

As you know, subdivision (c) of section 75.54 deals with the situation where there is a subsequent change in ownership, following an initial change in ownership or completion of construction, which occurs before mailing of the supplemental tax bill arising from the first change in ownership. The lien for the supplemental taxes is extinguished and the pro rata portion attributable to the first assessee is entered on the unsecured roll. The remainder of the supplemental taxes arising from the first change in ownership reattaches as a lien against the real property.

The question presented is whether subdivision (c) of section 75.31 gives the second assessee a right to appeal the first supplement assessment even though the first assessee failed to timely file an appeal. The language of subdivision (c) is not clear on this point. It merely says that the notice sent by the assessor "shall advise the assessee of the right to appeal the supplement assessment." The question seems to be whether the term "the supplement assessment" refers to the supplemental assessment which was triggered by the subsequent transaction or whether it also includes the second assessee's share of the supplemental assessment which was issued on the first transaction. In looking at section 75.54(c), it seems clear that a portion of the first assessment remains a lien on the real property after the second transaction but this retention of the lien is not a supplemental assessment. Thus, Marge and I both agree that the correct interpretation of "the supplemental assessment" in subdivision (c) of section 75.31, in this situation, is that it

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does not refer to that portion of the first supplemental assessment which is retained as a lien on the property. Thus, the second purchaser has no right to appeal any portion of the first supplemental assessment.

It seems to me that this treatment is consistent with the treatment given to a second purchaser under the regular roll provisions. Where the first purchaser fails to exercise his appeal right by September 15, the base year value for that year, as least, is fixed and the fact that the property is subsequently sold in the assessment year to another person does not create a new appeal right, even though the second person may have to pay some of the taxes arising from the unappealed assessment.

Please let me know if you disagree with this interpretation.

RHO:cb

cc: Mr. James J. Delaney
Mr. Gordon P. Adelman
Mr. Verne Walton
Mr. Ken McManigal