



STATE OF CALIFORNIA

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July 7, 1987

TO COUNTY ASSESSORS:

No. 87/49

DAIRY PROPERTIES BUY-OUT PROGRAM

We have been asked whether the dairy buy-out program of the federal government creates enforceable government restrictions to be recognized under Revenue and Taxation Code Section 402.1, and if so, should a decline in value be recognized under Revenue and Taxation Code section 51(b)?

We have reviewed a sample contract used by the U.S. Department of Agriculture to contract for the buy-out of dairy cows and milk producing facilities. The question at hand does not involve the appraisal of livestock, but only the appraisal of the land and improvements which make up a milk production facility. The contract provides that for any producer agreeing to slaughter or permanently ship dairy cows outside the boundaries of the fifty United States, its territories or possessions, then the U.S. Department of Agriculture, Commodity Credit Corporation will agree to pay a contract price by the pound for the animals disposed. The producer also agrees not to use the milk production facility to produce cows' milk or to maintain cows or cattle for a five-year period.

Our legal staff has determined that this restriction of the use of the property for the five-year period is a governmental imposed restriction on the use of the land and, therefore, is an enforceable restriction to be recognized under 402.1. (See Carlson v. Assessment Appeals Board No. 1, 167 Cal.App.3d 1004.)

Section 402.1 establishes an appraisal standard for land burdened by an enforceable restriction. If the valuation resulting from recognizing the restriction reduces the taxable value below the roll value, then Revenue and Taxation Code section 51(b) affords the assessor the mechanism by which a reduction in value may be recognized. Section 51(b) is not an alternate method for recognizing the restriction, but is merely the way by which the loss in value is recognized on the roll.

To County Assessors

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Upon termination of the five-year restriction, the assessor should cease valuing affected properties under the Revenue and Taxation Code Section 402.1. Properties such as these may still, for some time after the five-year restricted period, suffer declines in value; if so, then treatment under Revenue and Taxation Code Section 51(b) is still appropriate. However, once the subject property returns to dairy farming or otherwise regains its unrestricted status, then the original base year value should once again be restored.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:wpc
AL-19A-0042M