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August 3, 1987

TO COUNTY ASSESSORS:

No. 87/56

POLICY UPDATE FOR AGRICULTURAL PROPERTIES

RESTRICTED BY THE WILLIAMSON LAND CONSERVATION ACT (LCA)

Due to fluctuating interest rates, falling or stagnant farm land values, and the depressed farming economy generally, we have received many requests for an update of the Board's position relative to agricultural properties restricted by the Williamson Land Conservation Act (LCA). Following is a series of questions and answers that should satisfy these requests.

1. Question

Assessors' Letter No. 79/28, question 4 on page 2 states:

"Section 423(e) was added. This section provides, when specified in the contract, that the restricted value cannot exceed market value. Under current law (Article XIII A of the California Constitution as amended by Proposition 8) this would require the comparison of the factored restricted base year value, the currently computed restricted value, and the current market value. The lowest of the three would be enrolled; a new base year is established if current restricted or market value is enrolled."

Does this still reflect current Board policy? (Note that Section 423(e) has been renumbered to 423(d)).

Answer

No, it does not. The statutes only provide for a two-part test to enroll the lesser of either (1) restricted value, or (2) factored base-year value. This portion of Assessors' Letter 79/28 is in error and should be corrected in your files. See question 6, this letter, for a discussion of proposed legislation that may change this two-part test to a three-part test.

2. Question

The prescribed interest rate and thus the capitalization rate has dropped drastically the past two years (which could result in a substantial increase in LCA land values) while at the same time rural property values have remained stagnant or have even declined in many instances. In light of this, what, if anything, can or should be done to help mitigate the impact of the declining capitalization rate?

Answer

First, the "fair rent" used in the LCA formula should be reviewed. The fair rent should reflect the most current economic rent based on up-to-date rent surveys. A review of the most recent rental schedules may reveal that incomes and rents have dropped. This should be reflected in the fair rent estimate. Secondly, if share rents are used, crop rotation should be reviewed to determine if lower valued cash crops are being more frequently planted or if fallow periods are accurately reflected in the crop rotation estimate. If either or both of these situations exist, a proper reflection of these facts will have an impact on the ultimate LCA land value estimate.

It is important to note here what is not a proper adjustment to make. The assessor should not arbitrarily increase the risk rate component as an artificial means of lowering LCA land values. Assessors' Handbook Section 521A, The Valuation of Open-Space Property, pages 36-38, discusses the risk rate component. Generally, there are two types of risks that a farming enterprise incurs: "normal" risks such as fluctuations in weather, prices, marketability, etc., and "abnormal" or long-term reductions in productivity such as flood damage, loss of water, etc. The landowner's risk is at a minimum when cash rents are involved and at greatest risk when an owner-operator situation exists.

Determination of an appropriate risk component is very subjective. Usually cash rents and/or share rents will reflect a consideration made for risk and only a minor additional risk component is necessary. If proper economic "fair rents" are established annually, then the risk rate component in the LCA capitalization formula need only be minimal.

3. Question

Doesn't the assessor have to do something to offset the sometimes dramatic fluctuations from year to year of the LCA restricted land values, especially in recent years where the low capitalization rate has resulted in higher LCA land values, while at the same time market values of some rural properties have been declining?

Answer

It is not the assessor's responsibility to counteract market forces or existing law. If all the components of the LCA capitalization formula reflect up-to-date reliable data (i.e., "fair rent", crop rotation, etc.) then the assessor has done all that he/she is required to do or should do. The statutes clearly state that the assessor annually enroll the lesser of two values: the factored base-year value or the currently computed restricted value, whichever is less. The farming industry must be reminded that,

under existing property tax laws, the alternative to LCA assessment is to file for nonrenewal or cancellation. Their properties will then be taxed under the provisions of Article XIII A, the same as any other unrestricted property in the state. In the vast majority of cases, this will result in increased assessments. The fluctuations from one year to the next of the restricted LCA value is an industry anomaly that must be anticipated by the farmer.

4. Question

Are there any other provisions in the Revenue and Taxation Code allowing for a different valuation process?

Answer

Yes. Revenue and Taxation Code Section 423.3 defines four categories of land restricted by the Williamson Act and allows a city or county to limit assessments of land in each category to a value no higher than a given percentage of the property's factored base-year value as if unrestricted. The categories and their limiting percentages are as follows:

- a. Prime agricultural lands as defined in Section 16142(a) and (b) and Section 51201 of the Government Code - 70 percent.
- b. All other prime agricultural lands - 75 percent.
- c. Prime commercial range lands that meet the criteria contained in Revenue and Taxation Code Section 423.3(c) - 80 percent.
- d. All other open-space restricted lands - 90 percent.

If implemented, this limitation is applicable to restricted improvements (both living and nonliving) as well as restricted land. Restricted improvements are subject to the same limiting percentage as the land on which they are located. As in the case of the limitation contained in Section 423(d), the value to be enrolled is determined by comparing the total restricted value of the appraisal unit to the factored base-year value of the same unit modified by the appropriate percentages.

In order to use Section 423.3, the county must have included these provisions in the original LCA ordinance, or pass a subsequent ordinance approving their inclusion.

Counties which do not have such language in the original ordinance and contracts must first amend the ordinance itself so it includes the language necessary to activate Section 423.3. This action must be taken by the board of supervisors, and, upon its passage all LCA properties would be eligible for this treatment. Each individual LCA contract not containing the appropriate language must be amended by the parties, by a simple addendum, to incorporate the change.

Generally speaking, two hearings must take place before the board of supervisors:

- a. An introductory hearing requesting or stating that the Board consider such an amendment to the ordinance.
- b. A public hearing upon the conclusion of which the Board could pass said amendment.
- c. Subsequent to the action in (b) above, a 30-day period must pass from that date before the amendment becomes effective.

Typically, this process would take seven weeks from start to finish. Also, there is an exception to (c) above:

If the county determines that such an amendment be considered an urgency statute, then it could forego the 30-day period. This decision, however, rests in the hands of county counsel. Regardless, the amended ordinance must go into effect prior to March 1 of each year in order to receive treatment under Section 423.3 for that year.

5. Question

Are there any recent legislative changes that affect LCA properties?

Answer

Yes. Senate Bill 1506, Chapter 607, was approved by the Governor, August 28, 1986. This bill repealed Section 51283.1 of the Government Code and deleted the requirement for the payment of additional deferred taxes as discussed on page 81 of Assessors' Handbook Section 521A. This change also deleted the requirement that the assessor make the appropriate calculations for such a tax. Now, only the cancellation fee must be completed as described under the existing calculation procedures.

To County Assessors

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6. Question

Are there any proposed legislative changes that concern LCA properties?

Answer

Yes, there are two. First, Assembly Bill 509 was introduced in the Assembly on February 5, 1987. Currently, the statutes provide for a two-part value comparison and the enrollment of the lesser of either: (1) the restricted value, or (2) the factored base-year value. This bill, if it becomes law, will provide for a three-part value comparison and the enrollment of the lesser of: (1) the restricted value, (2) the factored base-year value, and (3) the current market value. (Note: Assembly Bill 509 was signed by the Governor on July 8, 1987 as Chapter 144 of the Statutes of 1987.)

Second, Senate Bill 338 was introduced in the Senate on February 9, 1987. Current law provides, that for cancellation purposes, the taxable value utilized for this procedure is the property's full cash value as though free of the contractual restriction. This bill would provide that the cancellation value of land that is under a Williamson Act contract is the property's current fair market value as though it were free of the contractual restriction.

We are monitoring the progress of these two bills. Once the outcome of the bills has been determined, we will notify you as soon as possible.

In the meantime, some of you may wish to consider what several assessors are doing in an effort to keep LCA landowners better informed. These assessors are sending an annual value notice to LCA property owners that shows both the restricted value and the factored base-year value for comparison purposes. By showing both values, the property owners can readily determine for themselves the benefits they may or may not be receiving from their LCA contract.

Please call our Technical Services Section at (916) 445-4982 if you have any additional questions regarding this matter.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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