

July 1, 2013

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Re: Comments from Interested Parties
Draft Assessor Handbook Section 410, “Assessment of Newly Constructed Property,” version Third Draft, September 2012.

SPECIFIC COMMENTS & RECOMMENDATIONS

ITEM	SOURCE	PAGE	LINE	SPECIFIC COMMENTS & RECOMMENDATIONS
1	Marin County Assessor	7	17-20	<p><u>Original text:</u> “Property owners may convert their properties to substantially equivalent to new by altering the existing structure to the point that it no longer resembles what was originally built. In some situations, property owners use both additions and alterations to convert structures into substantially equivalent to new.”</p> <p><u>Recommended text for pg. 7, lines 17-20:</u> “Property owners may convert their properties (or a portion thereof) to substantially equivalent to new in the course of remodeling, modernization, rehabilitation, extensive and extreme replacements, or renovations. In some situations, property owners use both additions and alterations to convert improvements into substantially equivalent to new as further described above.”</p> <p>Without qualification, staff’s comments and support of the existing text defining substantially equivalent to new can categorically exclude <i>all</i> alterations, replacements and repair construction so long as construction merely resembles what was originally built. Such an interpretation could directly conflict with Revenue and Taxation Code (RTC) §§70(a)(2), 70(b) and Property Tax Rule (PTR) 463(b)(2)(B)(3). <i>[Original text continues to be in conflict with page 6, lines 28-29; “when replacements are as extensive and extreme as to make an improvement (or a portion) like new, then the work is considered new construction.”]</i></p>
2	Marin County Assessor	29	11-14	<p><u>Note: the following recommendation is re-submitted based on responses to the staff comments below.</u></p> <p><u>Original text:</u> “Although extensive work was done on the house, the majority of the work was maintenance as it merely replaced old and deteriorated items with new ones of like kind. The taxpayer did not add any redesigned features to the house, nor did he improve it to the point that it was the substantial equivalent of a new home. No reappraisal of the base year value would be warranted.” <i>[Original text is in conflict with:</i></p> <p><i>(i) the concept of page 29 lines 11-14, “The intent is to prevent reassessment of property when minor additions or</i></p>

				<p>alterations are completed. Such minor additions or alterations generally would not convert (for assessment purposes) a slightly improved property into one that is substantially equivalent to new.</p> <p>(ii) Because this work done was extensive, the value and timing tests of page 7 should be applied. According to page 7, lines 21-36, the example fails to apply the handbook’s own suggestions of applying a value added test and a timing test as a consideration to formulating a judgment “to determine whether construction constitutes assessable new construction”.</p> <p>(iii) Pursuant to page 8, lines 3-6, the example fails to apply the handbook’s own suggestions of applying a value added test and a timing test as a consideration to formulating a judgment “to determine whether construction constitutes assessable new construction”.</p> <p>(iv) From page 5 of the draft: “Normal maintenance is the action of continuing, carrying on, preserving, or retaining real property or fixtures in proper condition. Maintenance performed on real property is normal when it is regular, standard, and typical.” This example identifies a house that was in poor condition with numerous elements of deferred maintenance. Had the improvement experienced “normal maintenance” its value would not have been lower than the selling price of comparatively sized homes. From page 6, lines 28-29; “when replacements are as extensive and extreme as to make an improvement (or a portion) like new, then the work is considered new construction.” Because the construction work was characterized as “extensive” it may not have constituted minor alterations and should be evaluated using the timing and value tests described above. <u>Recommended text:</u> “Extensive work was done on the house, while some of the work was maintenance as it replaced old and deteriorated items with new ones the work was not regular, standard and typical. As stated on pages 6 and 25, when replacements are as extensive, extreme, or in combination as to make an improvement (or a portion thereof) substantially equivalent to new, then the work is considered assessable new construction. Because an appraiser must use judgment to determine whether any construction constitutes assessable new construction, as discussed on page 7, this determination and measurement indicates an appraisal of the improvement immediately before and after the new construction to estimate the value added, along with an estimate of the value of a comparable new improvement to determine if the value of the improvement (or portion) after new construction is substantially equivalent to the value of a comparable new improvement (or portion). After consideration of the value and timing tests, if enough components are altered or replaced in a relatively short amount of time, and these replacements substantially increase the value of the property, then major rehabilitation may have occurred and should be assessed. Determining when construction is substantially equivalent to new requires both appraisal judgment and evaluation on a case-by-case basis.”</p> <p><i>[Alternate text options which would better characterize a non-assessable determination would be: (a) Changing the scenario with respect to timing, by either having the alterations carried out over a longer period of time to more realistically reflect normal, ongoing repairs and maintenance. (b) Changing the scenario with respect to value, by either having a newer improvement in average condition in which the value of the improvement after construction is substantially equivalent to the value prior to construction. (c) Describe less “extensive” and valuable new construction components which would not conflict with the timing and value added tests.</i></p>
3	Marin County Assessor	29	18	Also Ref.: Feb. 2013 Matrix, pg. 33, Staff Comments. Item (i) staff states the Assessor’s reference is under “Additions and Alterations” and is incorrect. In fact, pg. 29, lines 11-14 addresses additions AND alterations. If the construction in Example 3-10 meet the test of alterations as argued, then the Assessor’s reference is appropriate. The definition of alteration on page 4, lines 27-29 support this position.
4	Marin County Assessor	29	18	Also Ref.: Feb. 2013 Matrix. pg. 33, Staff Comment (ii). In denying the Marin Assessor’s recommendation, staff supports and paraphrases the draft text “Property owners may convert their properties to substantially equivalent to new by altering the existing structure to the point that it no longer resembles what was originally built.” No Constitutional, statutory, or regulatory authority exists to remotely suggest that “substantially equivalent to new” only means changing a structure to the point that is no longer resembled what was originally built. Such an interpretation

				could directly conflict with RTC §§70(a)(2), 70(b) and PTR 463(b)(2)(B)(3). Accordingly, the Marin Assessor’s references to page 7, lines 21-36, are on-point. The references on page 7, lines 21-36 describe what “substantially equivalent to new” means. For appraisers, hardly anything could be more explanatory to describe “substantially equivalent to new” other than the comparative value of something new.
5	Marin County Assessor	8	3-6	Also Ref.: Feb. 2013 Matrix. pg. 33, Staff Comment (iii). Staff comments that the section preceding these lines characterizes or defines “substantially equivalent to new” to mean that the property was altered to the point that it no longer resembled what was originally built. Such an interpretation could directly conflict with RTC §§70(a)(2), 70(b) and PTR 463(b)(2)(B)(3) and it is requested that staff identify the external source to reach this conclusion other than the internal reference in this handbook.
6	Marin County Assessor	5 7 8	18-21 23-26 3-6 Relative to Item 1 above, Ex. 3-10.	<p>Also Ref.: Feb. 2013 Matrix. pg. 33, Staff Comment (iv). Staff comments recognize that the construction was not done timely, which can be a requirement in meeting the definitions of normal maintenance and repair being regular, standard, and typical, as defined on page 5 of the draft. However, staff comments suggest that these parameters do not apply because of a change in ownership. Such an interpretation could directly conflict with RTC §§70(a)(2), 70(b) and PTR 463(b)(2)(B)(3), which contain no references relative to ownership, or changes in ownership, and it is requested that staff identify the external source to reach this conclusion other than the internal reference in this handbook.</p> <p>Staff comments ¶ 2state that “value is not a consideration in determining whether construction activity is assessable or not assessable.” Clearly, if no “value” is added, no value can assessed, and thus by definition requires that value be a consideration in determining whether construction is assessable. Further, if value is not a consideration then staff would have omitted lines 23-30 of page 7 and lines 3-6 of page 8.</p>

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