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September 8, 2009

TO COUNTY ASSESSORS: No. 2009/038

ERRORS IN ASSESSED VALUES ESTABLISHED UNDER PROPOSITION 8

Recently, we have received numerous inquiries about what county assessors must do upon discovering errors in values enrolled pursuant to Proposition 8, the 1978 constitutional initiative providing that the lower of a property's market value on any particular lien date or its adjusted base year value must be enrolled. This advisory letter provides current information about the Board staffs' position both (1) when such errors result in assessed values that are too high, and (2) when such errors result in assessed values that are too low. Specifically, we advise county assessors that:

1. If an error in a Proposition 8 value results in an overassessment, the county assessor must make a further reduction upon discovery of the error.

2. If an error in a Proposition 8 value results in an underassessment, the county assessor must issue an escape assessment upon discovery of the error.

Overassessments

Revenue and Taxation Code[1] section 51(a)(2) establishes the current market value of real property as the ceiling on the property's assessed value. Thus, section 51(a)(2) implements Proposition 8, which was adopted to give county assessors authority to recognize a decline in a property's market value below the property's adjusted base year value established pursuant to the original language of Proposition 13.

Section 4831(b) provides that a county assessor must correct, within one year, an assessment roll error involving the exercise of a value judgment that arises solely from a failure to reflect a decline in value under Proposition 8. Since nothing in the statute precludes a subsequent correction where the assessed value, even after a Proposition 8 reduction, is later found to be erroneously high, the Board staffs' position is that section 4831(b) authorizes a county assessor to correct the roll not only where no reduction was reflected on the roll initially, but also any time thereafter that a Proposition 8 value is discovered to be erroneously high.

Underassessments

Section 531 requires a county assessor to issue an escape assessment whenever it is discovered that property has been underassessed. Even absent this statutory authority, however, the courts have held that the constitutional requirement that all property be assessed and taxed in proportion

[1] All statutory references are to the Revenue and Taxation Code unless specified otherwise.

to its value is self-executing; that is, the constitutional requirement alone requires county assessors to levy escape assessments against underassessed property even when the underassessment is due to an assessor's mistake in judgment of value.[2] This requirement encompasses situations where the error involves a Proposition 8 value that is discovered to be erroneously low.

If you have questions about the advice contained in this letter, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
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DJG:mn

[2] *Hewlett Packard Co. v. County of Santa Clara* (1975) 50 Cal.App.3d 74, 82.