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OPINION	
of	No. 79-1005
GEORGE DEUKMEJIAN Attorney General	APRIL 18, 1980
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THE HONORABLE JOHN H. LARSON, COUNTY COUNSEL, COUNTY OF LOS ANGELES, has requested an opinion on the following questions:

1. Is the exclusion under Revenue and Taxation Code sections 60 through 66 of transfers of certain property interests from the meaning of "change in ownership" a valid construction of article XIII A of the California Constitution?

2. Are the limitations under Revenue and Taxation Code sections 70 through 72 of the term "newly constructed" a valid construction of article XIII A of the California Constitution?

3. Is the limitation under section 43 of chapter 242 of the Statutes of 1979 of the authority of a county assessor to enroll escape assessments for years prior to 1979-1980 to reflect the "full cash value" of any property constitutional?

CONCLUSIONS

1. The exclusion under Revenue and Taxation Code sections 60 through 66 of transfers of certain property interests from the meaning of "change in ownership" is a valid construction of article XIII A of the California Constitution.

2. The limitations under Revenue and Taxation Code sections 70 through 72 of the term "newly constructed," interpreted in the light of constitutional constraints to exclude only such reconstruction after a disaster "as declared by the Governor," is a valid construction of article XIII A of the California Constitution.

3. The limitation under section 43 of chapter 242 of the Statutes of 1979 of the authority of a county assessor to enroll escape assessments for years prior to 1979-1980 to reflect the "full cash value" of any property is constitutional.

ANALYSIS

Section 1, subdivision (a) of article XIII A of the California Constitution ("article XIII A," post) provides in part that the maximum amount of any ad valorem tax on real property shall not exceed one percent of the full cash value of such property. Section 2, subdivision (a) of article XIII A provides as follows:

> "The full cash value means the county assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term 'newly constructed' shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster."

The first inquiry is whether the exclusion under Revenue and Taxation Code sections 60 through 66, 1/ of transfers of certain property interests from the meaning

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1. Hereinafter, all section references are to the Revenue and Taxation Code unless otherwise indicated.

of "change in ownership" is a valid construction of article XIII A. Chapter 2 (consisting of §§ 60 through 67) of part 0.5 of division 1 of said code was added by the Statutes of 1979, chapter 242, section 4:

> "60. A 'change in ownership' means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.
>
> "61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:
>
> "(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.
>
> "(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.
>
> "(c)(1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.
>
> "Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

"(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62 and in Section 63.

"(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

"(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

"(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable.

"(h) The transfer of stock of a cooperative housing corporation, as defined in Section 17265, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof.

"(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

"62. Change in ownership shall not include:

"(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common.

"(b) Any transfer for the purpose of perfecting title to the property.

"(c)(1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

"(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

"(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

"(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants.

"(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more.

"(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

"(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such housing cooperative was

insured under Section 202, 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or was financed by a direct loan from the California Housing Finance Agency and the Regulatory and Occupancy Agreements were approved by the respective insuring agency or the lender, the California Housing Finance Agency.

"63. Notwithstanding Sections 60, 61, 62 and 65, a change of ownership shall not include any interspousal transfer, including, but not limited to:

"(a) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

"(b) Transfers which take effect upon the death of a spouse,

"(c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or

"(d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

"64. (a) Except as provided in subdivision (h) of Section 61 and subdivision (c) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

"(b) Any corporate reorganization, by merger or consolidation, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes or any

transfer of real property among members of an affiliated group, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

"For purposes of this subdivision 'affiliated group' means one or more chains of corporations connected through stock ownership with a common parent corporation if:

"(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

"(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

"(c) When one corporation obtains control, as defined in Section 25105, in another corporation through the purchase or transfer of corporate stock, exclusive of any shares owned by directors, such purchase or transfer of such stock shall be a change of ownership of property owned by the corporation in which the controlling interest is obtained.

"65. Whenever real property is purchased or a change in ownership of real property occurs, the assessor shall reappraise such real property at its full cash value.

"(a) Upon the termination of a joint tenancy interest, only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised, except that upon the termination of an original transferor's interest in any joint tenancy interest described in

subdivision (f) of Section 62, the entire portion of the property held by the transferor prior to the creation of the joint tenancy shall be reappraised and upon the termination of an interest in any joint tenancy interest described in subdivision (f) of Section 62, other than an original transferor's interest, there shall be no reappraisal if the interest thereby reverts to an original transferor.

"(b) Except as provided in subdivision (a), if a 5 percent or more undivided interest in or a portion of real property is purchased or changes ownership, then only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an undivided interest of less than 5 percent shall not be reappraised, provided, however, that transfers to affiliated transferees during any assessment year shall be cumulated for the purpose of determining the percentage transferred.

"(c) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

"66. Change in ownership shall not include:

"(a) The creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in an employee benefit plan; or

"(b) Any contribution of real property to an employee benefit plan.

"As used in this section, the terms 'employee benefit,' 'participant' and 'beneficiary' shall be defined as they are defined in The Employee Retirement Income Security Act of 1974.

"67. 'Purchased' or 'purchase' means a change in ownership for consideration."

Neither the terms of article XIII A nor the ballot summary and arguments and analysis presented to the electorate in connection therewith provide any guidance as to the meaning of a change in ownership in real property. It is, of course, well established that the terms used in a constitutional amendment must be construed in the light of their meaning at the time of the adoption of the amendment, and cannot be extended by legislative definition, for such extension would, in effect, be an amendment of the constitution, if accepted as authoritative. (Lucas v. County of Monterey (1977) 65 Cal.App.3d 947, 954; Forster Shipbuilding Co. v. County of Los Angeles (1960) 54 Cal.2d 450, 456; Pacific G & E Co. v. Industrial Acc. Com. (1919) 180 Cal. 497, 500.) There is, however, a strong presumption in favor of the Legislature's interpretation of a provision of the constitution. (Methodist Hosp. of Sacramento v. Saylor (1971) 5 Cal.3d 685, 692.) Thus, when the constitution has a doubtful or obscure meaning or is capable of various interpretations, the construction placed thereon by the Legislature is of very persuasive significance. (California Housing Finance Agency v. Patitucci (1978) 22 Cal.3d 171, 175; and see Lundberg v. County of Alameda (1956) 46 Cal.2d 644, 652; Flood v. Riggs (1978) 80 Cal.App.3d 138, 152.) The courts, therefore, will not annul, as contrary to the constitution, a statute passed by the Legislature, unless it can be said that it is positively and certainly in conflict therewith. (Kaiser v. Hopkins (1936) 6 Cal.2d 537, 540; San Francisco v. Industrial Acc. Com. (1920) 183 Cal. 273; Methodist Hosp. of Sacramento v. Saylor, supra.)

In Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization (1978) 22 Cal.3d 208, it was contended inter alia that certain words and phrases in article XIII A are so ambiguous or uncertain as to render the article as a whole incapable of a rational and uniform interpretation and implementation. The court expounded in part (id., at pp. 244-245):

"In evaluating the contention that, in effect, article XIII A is void for vagueness, we are aided by several principles of construction applicable to constitutions generally. As was stated in an early case, '. . . since a written constitution is intended as and is the mere framework according to whose general outlines specific legislation must be framed and modeled, and is therefore . . . necessarily couched in general terms or language, it is not to be interpreted according to narrow or supertechnical principles, but liberally and on broad general lines, so that it may accomplish in full measure the objects of its establishment and so carry out the great principles of government.' (Stephens v. Chambers (1917) 34 Cal.App. 660, 663-664 [168 P. 595].)

"On the specific issue of vagueness, we have recently expressed the concept that, in the abstract, all 'enactments should be interpreted when possible to uphold their validity [citation] and . . . courts should construe enactments to give specific content to terms that might otherwise be unconstitutionally vague. [Citations.]' (Associated Home Builders etc., Inc. v. City of Livermore, supra, 18 Cal.3d 582, 598.) Significantly, in Livermore, the foregoing principles were employed to uphold an ordinance adopted by initiative.

"Acknowledging as we must that article XIII A in a number of particulars is imprecise and ambiguous, nonetheless we do not conclude that it is so vague as to be unenforceable. Rather, in the usual manner, the various uncertainties and ambiguities may be clarified or resolved in accordance with several other generally accepted rules of construction used in interpreting similar enactments. Thus, California courts have held that constitutional and other enactments must receive a liberal, practical common-sense construction which will meet changed conditions and the growing needs of the people. (Los Angeles Met. Transit Authority v. Public Util. Com. [illegible] Cal.2d [illegible],

869 [31 Cal.Rptr. 463, 382 P.2d 583]; see People v. Davis (1968) 68 Cal.2d 481, 483 [67 Cal.Rptr. 547, 439 P.2d 651]; Rose v. State of California (1942) 19 Cal.2d 713, 723 [123 P.2d 505].) A constitutional amendment should be construed in accordance with the natural and ordinary meaning of its words. (In re Quinn (1973) 35 Cal.App.3d 473, 482 [110 Cal.Rptr. 881].) The literal language of enactments may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. (See Friends of Mammoth v. Board of Supervisors (1972) 8 Cal.3d 247, 259 [104 Cal.Rptr. 761, 502 P.2d 1049]; In re Kernan (1966) 242 Cal.App.2d 488, 491 [51 Cal.Rptr. 515].)

"Most importantly, apparent ambiguities frequently may be resolved by the contemporaneous construction of the Legislature or of the administrative agencies charged with implementing the new enactment. (See State of South Dakota v. Brown (1978) 20 Cal.3d 765, 777 [144 Cal.Rptr. 758, 576 P.2d 473]; Associated Home Builders etc., Inc. v. City of Livermore, supra, 18 Cal.3d at p. 598; Reynolds v. State Board of Equalization (1946) 29 Cal.2d 137, 140 [173 P.2d 551, 174 P.2d 4].) . . . ." (Emphasis in original.)

In conjunction with the first inquiry, our attention is directed specifically to the creation or transfer of a joint tenancy interest where the transferor remains a joint tenant (§ 62(f)), and to interspousal transfers (§ 63). Both the Legislature, by these provisions of the Revenue and Taxation Code, and the State Board of Equalization (tit. 18, Cal. Admin. Code, § 462(b)(2), (k)) have interpreted the term "change in ownership" in section 2(a) of article XIII A as exclusive of such transfers.

In Lucas v. County of Monterey, supra, 65 Cal.App.3d 947, the court held that a newly enacted provision of the Revenue and Taxation Code excluding possessory interests in shared wharf facilities from taxation as real property was manifestly inconsistent with the long history of legislative and judicial interpretation of article XIII, section 1 of the California Constitution providing that "all property

. . . shall be taxed." In Forster Shipbuilding Co. v. County of Los Angeles, supra, 54 Cal.2d 450, the court held that a new provision of the Revenue and Taxation Code declaring leasehold interests in tax-exempt land to be personal property was inconsistent with existing statutes and long-standing judicial interpretation of article XIII, section 14 of the California Constitution. Unlike the Lucas and Forster cases, there is no long-established legislative or judicial interpretation of the term "change in ownership" as used in article XIII A, adopted by the electorate in 1978.

Both technically and in its common currency the word "ownership" is a term of contextual variability, and must be interpreted and understood in light of the purposes, goals, and design of the enactment in which it appears. (Pacific Coast etc. Bank of San Francisco v. Roberts (1940) 16 Cal.2d 800, 806; 2 Ops.Cal.Atty.Gen. 310, 312 (1943); 1 Ops.Cal.Atty.Gen. 193, 195 (1943).) In applying any such generic term or general pronouncement to the almost limitless variety of particular human experiences, we are called upon to implement not our own will but that of the collective body whose province is to ordain them. The task here undertaken, to discover and effectuate the intent of the electorate, is appropriately initiated by a careful examination of the language, the integrity of which it is our duty and interest to preserve, in the context of the sequence of events and confluence of circumstances which produced it. In doing so, we must also bear in mind the admonition of the court in Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization, supra, 22 Cal.3d at page 244, that the constitution is not to be interpreted according to narrow or supertechnical principles, but liberally and on broad general lines, so that it may accomplish in full measure the objects of its establishment.

In common parlance the term "ownership" generally connotes the right of possession and use to the exclusion of others, as distinguished from technical aspects of title. (Cf. 1 Ops.Cal.Atty.Gen. 193, supra.) This basic concept of ownership is consistent with the purposes, goals, and design of article XIII A, which is primarily a tax relief measure. Under the new system of taxation, property is subject to reappraisal after 1975 only upon its purchase, new construction, or change in ownership. Each of these events involves a newly acquired, present and exclusive beneficial use and control. It is not consistent with the notion of tax relief to invite reappraisal upon technical changes of title, transfers in which the right of beneficial use is retained, transfers of contingent or nonvested future interests, or transfers within a familial or organizational economically interrelated group.

In our view, section 60, setting forth the general meaning of the term "change in ownership" is an adequate reflection of the purposes and objectives of article XIII A. Moreover, the specific exclusions, including transfers of joint tenancy interests where the transferor remains a joint tenant, and specified interspousal transfers, are reasonably consistent with the general definition and with the basic nontechnical notions of ownership. Accordingly, we are unable to conclude that such definition and exclusions are "positively and certainly" opposed to the constitutional mandate. (Cf. Kaiser v. Hopkins, supra, 6 Cal.2d at p. 540.)

Finally, it has been suggested that the exclusion of certain transfers from the definition of "change in ownership" constitutes an attempt by the Legislature to create exemptions of real property from taxation. In Delaney v. Lowery (1944) 25 Cal.2d 561, the court considered the constitutional sufficiency of an enactment which had the effect of transferring oil and gas leases from the unsecured to the secured tax rolls, thus subjecting those holdings to a different tax rate. It was held that the resulting change in the formula for determining the taxes of such leaseholds did not constitute an attempt to exempt specified real property from taxation in violation of article XIII, section 1 of the California Constitution. Similarly, the exclusion of certain transfers from the meaning of "change in ownership" for purposes of article XIIIA simply determines the base year of valuation, and does not create any exemption of real property from taxation.

It is concluded that the statutory exclusion of transfers of certain property interests from the meaning of "change in ownership" is a valid construction of article XIII A.

The second inquiry is whether the limitations under sections 70 through 72 of the term "newly constructed" is a valid construction of article XIII A. Chapter 3 (consisting of §§ 70 through 72) of part 0.5 of division 1 of the Revenue and Taxation Code was added by the Statutes of 1979, chapter 242, section 4:

> "70. (a) 'Newly constructed' and 'new construction' means:
>
> "(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and
>
> "(2) Any alteration of land or of any improvement (including fixtures) since the

last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

"(b) Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.

"(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, 'newly constructed' and 'new construction' does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

"71. The assessor shall determine the new base year value for the portion of any taxable real property which has been newly constructed. The base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed. New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

"72. A copy of any building permit issued by any city, county, or city and county, shall be transmitted by each such entity to the county assessor as

soon as possible after the date of issuance."

Both the Legislature, by section 70, subdivision (c), and the State Board of Equalization (tit. 18, Cal. Admin. Code, § 463(f)) have interpreted the term "newly constructed" to exclude any timely reconstruction of real property damaged or destroyed by misfortune or calamity, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. In this regard, the last sentence of article XIII A, section 2, subdivision (a) provides that:

> ". . . For purposes of this section, the term 'newly constructed' shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster."

The words "as declared by the Governor" do not appear in the legislative or administrative provisions. Thus, the latter provisions, if interpreted literally, would exclude the specified reconstruction from the term "newly constructed" without regard to any declaration by the Governor. The last sentence of article XIII A, section 2, subdivision (a) was added by the voters at the November 7, 1978, general election (proposition 8). It is clear from the express terms of proposition 8 and from the ballot summary, arguments, and analysis presented to the electorate in connection therewith that a declaration by the Governor is an essential condition precedent to the exclusion of the specified reconstruction from the term "newly constructed." The analysis by the legislative analyst states in part:

> "This proposal specifies that real property which is reconstructed after a disaster shall not be reassessed at its new market value if (1) <u>it is in a disaster area, as proclaimed by the Governor</u> and (2) its value is comparable to the fair market value of the original property prior to the disaster." (Emphasis added.)

The argument in favor of the proposition noted that:

". . . some California families have recently been the victims of large-scale disasters, officially recognized as state emergencies. To cite but one example, more than 200 families saw their homes completely destroyed by fire in Santa Barbara in 1977, and other Californians have suffered similarly from extensive floods, mudslides, and earthquakes." (Emphasis added.)

Literally interpreted, the omission of the condition precedent from the legislative and administrative provisions would constitute, in our view, such a material departure as to be "positively and certainly" inconsistent with the constitutional mandate. Exceptions and qualifications to a statute not incorporated therein by the Legislature should not be inserted under the guise of interpretation and construction (Mount Vernon Memorial Park v. Board of Funeral Directors and Embalmers (1978) 79 Cal.App.3d 874, 885; Pacific Motor Transport Co. v. State Board of Equalization (1972) 28 Cal. App.3d 230, 235; 61 Ops.Cal.Atty.Gen. 335, 339 (1978)) unless such an exception or qualification must reasonably and necessarily be implied in order not to disregard or overturn a sound rule of public policy (Pacific Motor Transport Co. v. State Board of Equalization, supra) or to conform the statute with constitutional constraints (County of Los Angeles v. Riley (1936) 6 Cal.2d 625, 628-629.) In accordance with these precepts and with the rule that every intendment is in favor of the constitutional sufficiency of a legislative enactment (Department of Alcoholic Bev. Control v. Superior Court (1968) 268 Cal.App.2d 67, 74) it is reasonable and necessary to imply a condition not expressly prescribed by the statute in question, that the specified reconstruction must follow a disaster "as declared by the Governor." 2/ So interpreted, it is concluded that the statutory limitations of the term "newly constructed" is a valid construction of article XIII A. 3/

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2. Similarly, the term "substantially equivalent" as used in section 70, subdivision (c), must be interpreted, in accordance with the express terms of article XIII A, section 2, subdivision (a), to mean that the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.

3. The question whether section 71, providing that the assessor shall determine the new base year value only for that

The third inquiry is whether the limtation under section 43 of chapter 242 of the Statutes of 1979 of the authority of a county assessor to enroll escape assessments for years prior to 1979-1980 to reflect the "full cash value" of any property is constitutional. That section provides:

> "Except as otherwise provided in this act, or in Chapter 49 of the Statutes of 1979, no escape assessments shall be levied and no refund shall be made for any years prior to 1979-80 for any increases (or decreases) in value made in 1978-79 as the result of the enactment of Article XIII A of the Constitution, and Chapters 292 and 332 of 1978 or this act, except that any refunds which result from appeals filed for 1978-79 in a timely manner or pursuant to Chapter 24 of the Statutes of 1979 shall be made."

Chapter 49 of the Statutes of 1979 amended section 110.1 of the Revenue and Taxation Code. Subdivision (b) of that section provides:

> ". . . Notwithstanding any provisions of Section 405.5 or 405.6, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975-76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975-76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year. In determining the new base year value for any such property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals

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3. (Continued.)

portion of the property which has been reconstructed, is a valid construction of article XIII A, does not fall within the scope of this opinion.

made pursuant to Section 405.5 for the 1975 lien date. Such new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405.5 for the fiscal year. In the event such a determination is made, no escape assessment may be levied and the newly determined 'full cash value' shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

"If the value of any real property as shown on the 1975-76 roll was determined pursuant to a periodic appraisal under Section 405.5, such value shall be the 1975 lien date base year value of the property.

"As used in this subdivision, a parcel of property shall be presumed to have been appraised for the 1975-76 fiscal year if the assessor's determination of the value of the property for the 1975-76 fiscal year differed from the value used for purposes of computing the 1974-75 fiscal year tax liability for the property, but the assessor may rebut such presumption by evidence that, notwithstanding such difference in value, such parcel was not appraised pursuant to Section 405.5 for the 1975-76 fiscal year." (Emphasis added.)

Both section 110.1, subdivision (b) and article XIII A, section 2, subdivision (a) provide for the reassessment of the base year value for real property not previously assessed up to the 1975-1976 full cash value. However, both section 110.1 and section 43 of chapter 242 of the Statutes of 1979 provide that no escape assessment may be levied for any year prior to 1979-1980 as the result of any such reassessment.

California Constitution, article XIII, section 1 provides that "[all property is] taxable and shall be

assessed at the same percentage of fair market value." Thus, the county assessor is constitutionally required to assess all property within his jurisdiction and to do so on a uniform basis; this duty requires the assessor not to allow anyone to escape a just and equal assessment through favor, reward, or otherwise. (Bauer-Schweitzer Malting Co. v. City and County of San Francisco (1973) 8 Cal.3d 942, 945; Knoff v. City and County of San Francisco (1969) 1 Cal.App.3d 184, 195-196.) This constitutional provision is self-executing and does not, therefore, require statutory authorization. (Bauer-Schweitzer Malting Co. v. City and County of San Francisco, supra, at p. 946.) Nor is it within the legislative power, either by its silence or by direct enactment, to modify, curtail, or abridge the constitutional mandate. (Hewlett-Packard Co. v. County of Santa Clara (1975) 50 Cal.App.3d 74, 81.)

Section 43 of chapter 242 of the Statutes of 1979, however, is specifically limited to assessments made in 1978-1979 pursuant to the express requirement of article XIII A, section 2, subdivision (a) that "[a]ll real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation." The latter reference is, of course, to those properties which had not, by virtue of the sequential, cyclical appraisal system then in effect (see §§ 405.5, 405.6), been last assessed to its full cash value in 1975-1976. The limitation contained in section 43, of the authority of a county assessor to enroll escape assessments for years prior to 1979-1980 does not preclude any such assessments made under and in accordance with the formula and procedures applicable to such years, but rather precludes such a levy only on an assessment made pursuant to article XIII A on property not subject to appraisal in 1975-1976 under the sequential order then in effect. As to property which should have been but was not assessed in 1975-1976 to its full cash value, the county assessor remains authorized and constitutionally obliged to levy an escape assessment whether or not such property was assessed in 1978-1979 "as the result of the enactment of article XIII A."

Article XIII A establishes a new and different formula for calculating the full cash value of real property. (Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization, supra, 22 Cal.3d at p. 218.) The purpose of reassessment of property which has not been purchased, newly constructed, or which has not changed ownership since 1975, to the 1975-1976 full cash value, is solely to establish a uniform base year of valuation for purposes of prospective application of the new system. Nothing in the ballot summary, arguments, and analysis [illegible] nection with article XIII A indicates an intention to alter

or modify the previous system of real property taxation and tax procedure in effect during the years prior to 1978-1979, nor does section 43 of chapter 242 of the Statutes of 1979 accomplish any such result. It is concluded, therefore, that the limitation under section 43 of chapter 242 of the Statutes of 1979 of the authority of a county assessor to enroll escape assessments for years prior to 1978-1979 to reflect the "full cash value" of any property is constitutionally authorized.

Section 43, however, proscribes escape assessments "for any years prior to 1979-80," including 1978-1979, the initial year of the new system. The remaining question, therefore, is whether the limitation of the authority of the county assessor to enroll escape assessments for the year 1978-1979 is constitutional. For the reasons set forth below, we do not share the view that section 43 provides the limitation suggested in the inquiry.

We begin with the fundamental rule that the intent of the Legislature should be ascertained so as to effectuate the purpose of the law. (Moyer v. Workmen's Comp. App. Bd. (1973) 10 Cal.3d 222, 230.) The words of a statute must be construed contextually, in order to give effect to the manifest purposes that, in light of its legislative history and the wider historical circumstances of its enactment, appear from its provisions as a whole. (California Mfgrs. Assn. v. Public Util. Com. (1979) 24 Cal.3d 836, 844; Nightingale v. State Personnel Board (1972) 7 Cal.3d 507, 513; Smith v. Mt. Diablo Unified Sch. Dist. (1976) 56 Cal. App.3d 412, 418.)

By the Statutes of 1978, chapter 292, section 29, effective June 24, 1978, as amended by chapter 332, section 26, effective June 30, 1978, the Legislature added section 110.6 to the Revenue and Taxation Code, as follows:

> "The Legislature finds and declares that a change in ownership of real property means all recorded and unrecorded transfers of legal or equitable title, except the transfer of bare legal title, whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. The term shall also include, but is not limited to, the transfer of stock of a corporation vested with legal title which conveys to the transf[illegible] to occupancy

and possession of the real property, or a portion thereof, and the creation of a leasehold or taxable possessory interest, or the sublease or assignment thereof, for a term in excess of 10 years.

"The board shall prescribe rules and regulations to govern assessors when determining when a change in ownership of real property occurs.

"'Change of ownership,' as used in this section, shall exclude any of the following:

"(1) Any transfer to an existing assessee for the purpose of perfecting title to the property;

"(2) The creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession, or profits;

"(3) Any interspousal transfer to create or terminate a community property interest or joint tenancy interest;

"(4) Substitution of a trustee under the terms of a security or trust instrument;

"(5) Any termination of a joint tenancy interest; or

"(6) Any transfer of a share of stock in a cooperative housing corporation, as defined in Section 17265, coupled with a possessory interest in a cooperative apartment unit thereof; provided however, that proportion of the value of the cooperative housing corporation attributable to the possessory interest shall be included.

"The provisions of this section cease to be operative on July 1, 1979, and as of such date are repealed."

By its express terms, section 110.6 expired on July 1, 1979. Thus, for purposes of the first year only of article XIII A, the Legislature [illegible] guidance as to the manner

in which it would be implemented, including a preliminary definition of "change of ownership." After a careful study and review during the fall of 1978 of its legislation implementing article XIII A, the Legislature finally passed and sent to the Governor, on May 25, 1979, Assembly Bill 156. That bill contained, inter alia, a definition of "change in ownership" identical to that contained in chapter 242, section 4 of the Statutes of 1979 which is the subject of the first inquiry herein. The bill further provided in section 16(a) that "the provisions of Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1 of the Revenue and Taxation Code shall also apply to the determination of base year values for the 1978-79 assessment year." Thus, the new definition of "change in ownership" would have applied retroactively to 1978-1979, the year in which the definition contained in section 110.6 had already been applied. The Governor vetoed the bill. Thereafter, the provisions of Assembly Bill 156, with the retroactive feature deleted, were amended into Assembly Bill 1488 which was signed by the Governor on July 10, 1979 (Stats. 1979, ch. 242). Section 41 of chapter 242 provides:

> "(a) Notwithstanding the provisions of Sections 110.1 and 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979-80 assessment year and thereafter, except as provided in Section 42 of this act.
>
> "It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979-80 assessment year and thereafter, including but not limited to, any change in ownership occurring on or after March 1, 1975."

Thus, the Legislature clearly intended that the new definition of "change in ownership" would operate prospectively only. Consequently, the only definition applicable to 1978-1979 is that provided in section 110.6.

Section 43 of chapter 242 precludes escape assessments for increases in value made in 1978-1979. By this language, the Legislature has proscribed escape assessments for increases in value [illegible] its initial expansive definition of "change in ownership."

Inasmuch as the Legislature has, upon considered analysis and reflection, since prescribed a more limited definition, consistent with the intent of article XIII A, it would be inappropriate to levy an escape assessment based on the earlier expanded definition.

Since section 43 precludes, in our view, only such escape assessments which are predicated upon the statutory definitions in effect during 1978-1979, it is concluded that such limitation is not inconsistent with the provisions of article XIII A. 4/

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4. We are not asked, and we express no opinion with respect to the constitutional sufficiency of section 41 of chapter 242 of the Statutes of 1979, or of section 110.1, subdivision (b).