



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
EBSTER BLDG. CO.)

For Appellant: Miller and Co. and Richard Miller,
Certified Public Accountants

For Respondent: Burl D. Lack Chief Counsel;
A. Ben Jacobson, Associate Tax Counsel;
Crawford H. Thomas, Associate Tax Counsel

OPINION

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Ebster Bldg. Co. to proposed assessments of additional franchise tax in the amounts of \$1,317.79 and \$625.70 for the taxable years ended March 31, 1955, and March 31, 1956, respectively.

Appellant is a California corporation, organized in April, 1953, for the purpose of engaging in real estate development. In March, 1954, it became a partner in Edside Bldg. Co., a partnership which developed and sold 126 home sites before being dissolved in March, 1956.

The sole question presented is whether the sales of 42 homes were completed in the partnership's fiscal year ended October 31, 1954, as determined by the Franchise Tax Board, or instead in the partnership's fiscal year ended October 31, 1955, as contended by Appellant.

With respect to this question, the material facts here are identical with those set out in our Opinion today in the matter of the Appeals of Edside Bldg. Co., et al. We hold, therefore, that the aforesaid 42 homes were sold in the fiscal year ended October 31, 1954, and Appellant's distributive share of the gain from such sales should have been reflected in its return of income for the income year ended March 31, 1955.

Appeal of Ebster Bldg. Co.

O R D E R

Pursuant to the views expressed in the Opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 25667 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Ebster Bldg. Co. to proposed assessments of additional franchise tax in the amounts of \$1,317.79 and \$625.70 for the taxable years ended March 31, 1955, and March 31, 1956, respectively, be and the same is hereby sustained,

Done at Sacramento, California, this 6th day of November, 1961, by the State Board of Equalization.

John W. Lynch, Chairman

Paul R. Leake, Member

Geo. R. Reilly, Member

_____, Member

_____, Member

ATTEST: Dixwell L. Pierce, Secretary