Memorandum

To: Mr. Gene Mayer
From: Robert R. Keeling
Subject: Water Reservations

Date: October 22, 1984

This is in response to your memorandum dated October 9, 1984 in which you ask if certain water rights owned by the City of Riverside, Riverside County, and located in San Bernardino County, are within the assessment jurisdiction of the Board; and if so, are they assessable under the provisions of California Constitution Article XIII, Section 11.

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I suggest you proceed to return assessment jurisdiction of these water rights to the local assessor. Since the rights you speak of here are government-owned property outside its jurisdictional boundaries, then the property should be assessed according to the provisions of Article XIII, Section 11.

Sincerely,

[Signature]

CC: Mr. J. J. Delaney
    Mr. Robert H. Gustafson
    Mr. Gordon P. Adelman
    Mr. Verne Walton
    Mr. Gene DuPaul
    Mr. Jerry Del Agostino
Honorable John N. Scott, Alameda County Assessor  
County Administration Building  
1221 Oak Street  
Oakland, CA 94612-4288  
Attn: Leslie Rein, Supervising Appraiser II

Re: Assessment Appeals Board Hearing on Base Year Allocation

Dear Ms. Rein:

This is in reply to your letter of December 15, 1998 in which you request a legal opinion concerning an assessment appeals board’s authority to hear an appeal of a base year value, where the applicant agrees with the assessor’s determination of the total base year value but believes that the value has been incorrectly allocated between the land and the improvements. Based on these facts, you ask: “[I]s this particular situation an equalization matter and under what circumstances, if any, can the Assessment Appeals Board consider appeals of land and improvement allocations?”

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Law and Analysis

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While most applications appeal the value of entire appraisal units, property tax rules governing the conduct of assessment appeals proceedings clearly contemplate the appeal of a portion of an appraisal unit. For example, Rule 307, subdivision (a) sets forth certain required information included in the notice of hearing by providing, in part:

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Moreover, Property Tax Rule 324, subdivision (b) gives direction to an appeals board when deciding an application which appeals only a portion of the property by providing, in relevant part:

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When deciding an application requesting a reduction in the base year value of a portion of the property, an appeals board is not restricted to a determination of the value of only that portion but may, if appropriate, reappraise the entire property. In this regard, Revenue and Taxation Code section 1610.8 provides:

After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property and by reducing or increasing an individual assessment as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant’s opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.
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Subject: Water Reservations

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CC: Permanent Legal Opinion
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County Administration Building
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Oakland, CA 94612-4288
Attn: Leslie Rein, Supervising Appraiser II

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Hon. John N. Scott -2- January 4, 1999

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The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.

The county board shall make a determination of the full value of each parcel for which an application for equalization is made.

For purposes of determining all or any portion of an appraisal unit, section 1610.8 clearly requires that an appeals board must determine the value of the entire appraisal unit. Furthermore, such a determination may necessarily result in increases in the value of uncontested portions of the property because the appeals board is not restricted by the applicant’s opinion of value. As shown above, Rule 307, subdivision (a) implicitly recognizes that such increases may occur and requires that an applicant be so notified.

Appeal of Allocations

Article XIII, section 13 of the California Constitution requires that an assessor separately assess land and improvements. Thus, when establishing a base year value upon a change in ownership or completion of new construction, the assessor must determine a new base year value for land and/or a new base year value for improvements. The total of the separate base year values become the total base year value for the entire property.

The correct allocation of the total base year value is important because subsequent adjustments resulting from an event such as removal of an improvement must correctly reflect the separate base year values and, thereby, avoid an overallocation of the total base year value to the land. Thus, in our view, the possibility that a misallocation made at the time the base year value is established may result in adverse tax consequences at some later time requires that a taxpayer have the right to appeal the allocation of the base year value within the time limitations period of either section 1605, subdivision (b) for supplemental assessments or section 80 for base year value appeals.

On the other hand, a taxpayer who appeals a decline in value of the property should not be allowed to appeal the allocation. Pursuant to section 51, the taxable value of real property shall be the lower of the adjusted base year value or the current fair market value as of the lien date. Thus, decline in value appeals are made on an annual basis and the value determination made as a result of such an appeal is typically effective for only the year appealed. This value determination applies to the entire property, without regard to the separate components, and a recalculation of the allocation would have no effect on the tax liability. In some instances, reallocation could result in alternating annual changes that would merely consume scarce county resources.

Although we conclude that a taxpayer should have the right to appeal a base year value allocation, in the absence of any specific legal authority to that effect, the jurisdictional determination should be made by the assessment appeals board. As a quasi-judicial body, an appeals board has the right to pass upon its own jurisdiction in the first instance. County of Sacramento v. Assessment Appeals Bd. No. 2 (1973) 32 Cal.App.3d 654, 663.
The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very Truly Yours,

[Signature]

Louis Ambrose
Tax Counsel

cc: Mr. Dick Johnson, MIC:63
    Mr. David Gau, MIC:64
    Ms. Jennifer Willis, MIC:70