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JAN 7 1998
PROP. TAX ADMIN.
State Board of Equalization

January 6, 1998

Honorable Bradley L. Jacobs,
Orange County Assessor
630 North Broadway, Civic Center Plaza Entrance
P.O. Box 149
Santa Ana, CA 92702

Attn: Mr. Rich Swanson, Quality Assurance Manager

Re: Sunrise Retirement Villa - Effect of Decision on Assessment Appeals Boards

Dear Mr. Swanson:

This is in reply to your letter of November 6, 1997 in which you request a legal opinion on the impact that the recent opinion of *Sunrise Retirement Villa et al. v. Placer County Assessor* (1997) 58 Cal.App.4th 948 may have on assessment appeals boards in California. In that case, the California Court of Appeal, Third Appellate District held that an assessment appeals board has jurisdiction to hear an appeal to correct an alleged error in setting a base year value, not involving a judgment of value, in any year in which the error is discovered, if the assessor declines to make the correction pursuant to Revenue and Taxation Code section 51.5. The court rejected the appeals board's interpretation that its jurisdiction to hear base year value appeals was limited to the four year statute of limitations in section 80, subdivision (a)(3).

As a basis for finding that the appeals board had jurisdiction, the court of appeal first observed that the plain language and legislative history of section 51.5 evidenced a clear intent that errors not involving value judgments should be corrected in any year in which they are discovered. When such a correction is made, section 80 allows an assessee to appeal the new (presumably higher) base year value within four years of the time the assessment is placed on the assessment roll. Therefore, the court reasoned, fairness and logic dictate that the equalization process should be available to an assessee when the assessor rejects the request to make a correction which would result in a base year value decrease after four years of the date the assessment has been placed on the roll. Furthermore, the independent correction procedures of section 51.5 and the language in the section supersede any statutes of limitations otherwise applicable to a taxpayer's right to correction in the assessment roll.

The summary of the holding stated in your letter is essentially in agreement with our reading of the case; however, we disagree with your conclusion that the opinion "seems to open to AAB decision, any factual misrepresentation, misunderstanding, error in information reported to the assessor by the property owner . . ." The opinion does not suggest that appeals board jurisdiction is available when a property owner claims, without any factual substantiation, that an error was made. Rather, in order to trigger the application of section 51.5, a property owner must present to the assessor credible evidence of an error not involving value judgment, such as the judgment on stipulation produced by the plaintiffs. For example, a property owner might produce a marriage certificate if he or she believes that a transfer which resulted in a change in ownership should actually have received the interspousal exclusion. Because the disputed error will necessarily involve a factual dispute, a property owner alleging error must have some evidentiary basis, as opposed to an opinion, for any such claim.

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,

Louis Ambrose
Tax Counsel

LA:ba
cc: Mr. Dick Johnson, MIC:63
Policy, Planning, and Standards Division, MIC:64

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