State of California

210.0030

Legal Division

Memorandum

To:

Date: April 4, 1994

From: F

Subject: Correct Values to Use for the Comparison (and Enrollment) Under Section 423 (d) (Open Space Property) - Policy Change

This is in response to your memo to me of March 15, 1994 in which you stated that your new policy with respect to the above-referenced subject will be as follows:

(1) The restricted portion of a California Land Conservation Act (CLCA) property will be valued at the lesser of its restricted value, factored base year value (FBYV), or market value (MV). The unrestricted portion will be valued at the lesser of its FBYV or MV. The total property value will be the sum of these two components; e.g. $165,000 as found on page 2 of Dennis' memorandum.

(2) The restricted portion of a single parcel appraisal unit (or restricted parcels of a large multi-parcel agricultural appraisal unit) will now be treated as a separate appraisal unit from that which is unrestricted, and valued as discussed above. Concurrently, the unrestricted portion (or parcels) of the larger appraisal unit will now be treated as a separate appraisal unit and enrolled at the lesser of either MV of FBYV regardless of which value (MV or FBYV) was utilized in combination with the CLCA value for the restricted portion (or parcels) of that appraisal unit. For purposes of dealing with CLCA properties the appraisal unit has been redefined - <u>that which is restricted becomes an appraisal unit: that which is not restricted becomes a separate appraisal unit.</u>

You believe, however, there is a remaining question which was not addressed earlier. That is, how do we handle unrestricted nonliving improvements (e.g. irrigation improvements - solid set sprinkling for orchards etc.) and, miscellaneous improvements - stakes, wires, posts (for vineyards etc.) that exist on restricted parcels. Do we also treat these unrestricted nonliving improvements as a separate appraisal unit even though they are an integral part of the restricted portion of the farming operation?

The following example should help clarify the issue:

	MV	FBYV	CLCA
Restricted Land	$100,000	$ 85,000	$70,000
Unrestricted Non-Living Improvements	45,000	55,000	?
Total Unit Value	$145,000	$140,000	?

As we understand the question, the unrestricted nonliving improvements under the foregoing example should be enrolled at $45,000 if they are valued as a separate appraisal unit, i.e., the lower of their MV or FBYV. If, however, they are valued as part of the appraisal unit which includes the restricted land, a value of $55,000 should be enrolled because the FBYV of the unit is lower than the MV of the unit.

In its discussion regarding the valuation of nonliving improvements, AH 521A, The Valuation of Open-Space Property, states at page 60 that "[u]nrestricted nonliving improvements must be assessed...at the lower of either their current full cash value or their factored base-year value." The handbook further states at page 69 that "[t]he unrestricted portion should always be valued as a separate unit." (Emphasis added.) Both statements are legally accurate in our view.

The nonliving improvements should, therefore, be treated as a separate appraisal unit and enrolled at the lower of FBYV or MV which, in the foregoing example, would be $45,000.

Eric Eisenlauer

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