220.0429 **Mobilehome Park**. The transfer of a mobilehome park property to a trust that is to operate the property and eventually convey it to a tenant-ownership entity qualifies for exclusion from change in ownership under Revenue and Taxation Code section 62.2 provided that within one year of the transfer to the trust the property is transferred in a transaction that is excluded from change in ownership by section 62.1 subdivisions (a) or (b). C 11/5/91.

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November 5, 1991

Mr. Rob -
Division Director-Administrator
OFFICE OF THE COUNTY ASSESSOR
Santa Cruz County Governmental Center
701 Ocean Street
Santa Cruz, CA 95060

Dear M. ....

This will confirm our recent telephone conversation regarding the proposed transfer of Mountain Brook Mobilehome Park in Scotts Valley from the present owners to a corporate trustee which will hold the mobilehome park in trust and operate it for the purposes of converting the park to tenant ownership. The beneficiaries of the trust are the plaintiffs in certain litigation involving the owners of the mobilehome park. These plaintiffs are, for the most part, current tenants in the mobilehome park and represent some 37 households. I have been assured by the attorney for the plaintiffs, Mr. Benjamin H. Scharf, that the plaintiffs currently residing in the park represent well over 51% of the current tenants.

As outlined in Mr. Scharf's letter to you, dated October 21, 1991, the question is whether the proposed transfer of the mobilehome park from the current owners to the corporate trustee pursuant to the terms of the proposed trust, qualify for the exclusion from change in ownership found in Revenue and Taxation Code section 62.2, as amended, effective September 25, 1991, by Chapter 442 of the Statutes of 1991 (SB 674, Craven). As so amended, section 62.2 provides that change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a non-profit corporation, stock cooperative corporation, or "other entity" if the park is transferred by that corporation or entity to a non-profit corporation, stock cooperative corporation or other entity formed by the tenants of the mobilehome park in a transaction which is excluded from change in ownership by subdivision (a) of section 62.1, etc. The second transfer must occur within

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one year after the first transfer.

As I discussed with you, it appears, based upon the information provided, that the proposed transfer could qualify under section 62.2. The critical question for me was whether the transfer from the original mobilehome park owners to the corporate trustee would qualify as a transfer to an "other entity" as that term is used in section 62.2. As I explained to you, it has generally been our view that for change in ownership purposes trusts are not viewed as separate entities. Rather, we look through the trust to the trust beneficiaries who are the ultimate beneficial owners of the property. Notwithstanding that general interpretation, however, I believe that the term "other entity" as used in section 62.2 can be construed broadly enough to include the trust arrangement proposed here. It is apparent from the terms of section 62.2 that it is designed to provide a change in ownership exclusion for transfers of mobilehome parks to certain third parties where those transfers are for the purpose of facilitating the eventual conversion of the park, within the time limited, to tenant ownership. Thus, we believe that the term "other entity" can be given a broad meaning as long as it is consistent with the general purpose of this section. Under the particular limited circumstances described in Mr. Scharf's letter, it seems clear that the proposed transfer falls within that purpose. Accordingly, we conclude that the transfer of the mobilehome park to the corporate trustee under the described circumstances, qualifies under section 62.2 as long as the other requirements of the section are met.

The views expressed in this letter are, of course, advisory only. The ultimate determination of the application of section 62.2 rests with the county assessor.

Very truly yours,

Richard H. Ochsner
Assistant Chief Counsel

RHO:ta
3679D
cc: Mr. Benjamin H. Scharf
Mr. John W. Hagerty
Mr. Verne Walton
Mr. Eric F. Eisenlauer
Mr. Robert R. Keeling