220.0430 **Mobilehome Park.** Revenue and Taxation Code section 62.1 excludes from change in ownership "any transfer" after January 1, 1984, and before January 1, 1994, of a space in a mobilehome park to the occupant thereof if certain requirements are met. The fact that a space prior to the transfer is owned by a corporation in which the occupant is a stockholder does not disqualify the transfer. C 11/17/92.

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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Controller, Sacramento

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Executive Director

November 17, 1992

[illegible]
Law [illegible]
[illegible] Street
[illegible]

Dear [illegible]

This is in response to your letter of September 15, 1992, requesting advice on the application of Revenue and Taxation Code section 62.1, relating to mobile home park acquisitions.

Your letter states that your client is a nonprofit membership corporation which owns all of the land on which a mobile home park is situated. Members of the organization are entitled to utilize one of the park lots on which they may situate their own, individually owned, mobile home. Your letter does not indicate, however, whether the members of the corporation are tenants who rent their spaces from the corporation pursuant to a rental agreement or lease and pay rent for the privilege of occupying space, or whether the members are entitled to occupy one space in the park by virtue of their ownership of the membership in the corporation.

Your letter states that the corporation was formed in 1988 and the mobile home park was purchased in January of 1989. You do not indicate, however, whether this acquisition was treated as a change in ownership which subjected the park to reassessment or whether the transfer qualified for exclusion under the provisions of section 62.1.

Your letter also states that member mobile home owners have found it difficult to sell their mobile homes because banks will only loan 70 percent of its value since a mobile home is personal property and the banks do not view the membership in the corporation as a valuable asset. The banks have suggested that the mobile home park spaces be distributed to the individual corporation members either directly or in condominium form.

The question you present is whether distribution of the mobile home park spaces to the individual owners from the corporation either in condominium form or in a fee ownership would qualify for exclusion from change in ownership under the

terms of Revenue and Taxation Code section 62.1. You also indicate that you have discussed this question with both Gary Stange of the Riverside County Assessor's Office and Arnold Fong of the Board's staff, and that while both felt that this transaction would probably fit within the terms of the section, Mr. Fong expressed some concern that it might not fit the Legislative intent behind the exclusion.

As you know, Revenue and Taxation Code Section 62.1 provides certain exclusions from change in ownership relating to mobilehome park transfers. Subdivision (a) excludes any transfer after January 1, 1985, of a mobilehome park to a nonprofit corporation, or other entity, formed by the tenants of a mobilehome park for the purpose of purchasing the park. For transfers after January 1, 1989, at least 51% of the tenants are required to participate in the transaction through ownership of at least 51% of the voting stock or other ownership interests in the acquiring entity. Subdivision (c)(1) provides that if the transfer of a mobilehome park has been excluded from change in ownership pursuant to subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, a transfer of the voting stock or other ownership or membership interests in the entity shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for purpose of converting the park to condominium, stock cooperative ownership or limited equity cooperative ownership or is otherwise excluded from change in ownership by the provisions of section 62, 63, or 63.1 of the Revenue and Taxation Code. While these provisions are not directly related to your question, I point them out because they may become pertinent depending upon the way in which you structure the proposed transaction you have suggested.

Subdivision (b) of section 62.1 provides that any transfer after January 1, 1985, and before January 1, 1994, of rental spaces in a mobilehome park to the individual tenants of the rental spaces are excluded from change in ownership if at least 51% of the spaces are purchased by individual tenants renting their spaces prior to their purchase and the individual tenants of these spaces, form within one year after the first purchase of a rental space by an individual tenant, a resident organization, as described in subdivision (k) of section 50781 of the Health and Safety Code, to operate and maintain the park. The subdivision goes on to provide that the assessor shall not reappraise any rental space purchased by a tenant in the park if the tenants notify the assessor of their intention to comply with the preceding conditions. The assessor is permitted to escape

assess any spaces transferred if the conditions set forth above are not satisfied. Finally, the subdivision provides that it only applies to those rental mobilehome parks which have been in operation for five years or more.

Subdivision (k) of Health and Safety Code Section 50781 provides that the term "resident organization" means a group of mobilehome park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobilehome park in which they reside and converting the mobilehome park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing the mobilehome park.

It is my understanding that subdivision (b) of section 62.1 was adopted by the Legislature in order to address a situation involving the conversion of a mobilehome park from private ownership to tenant ownership through the sale of individual rental spaces to the individual tenants. Thus, the situation which gave rise to subdivision (b) did not involve a park which had already been converted to tenant ownership, as is the case here. While the two situations are dissimilar, it should be recognized that subdivision (b) contains no express limitation on its application relating to the nature of the entity transferring the rental spaces. The language of the subdivision refers to "any transfer". It does not appear, therefore, that the fact that the mobilehome park is owned by a tenant organization would disqualify transfers of rental spaces from the benefits of subdivision (b) provided that all of the various requirements of that subdivision are satisfied.

Subdivision (b) applies to transfers between January 1, 1985 and January 1, 1994, of rental spaces in a mobilehome park to the individual tenants of those spaces, provided that at least 51% of the spaces are purchased by individual tenants who rented the spaces prior to purchase and the individual tenants form within one year after the first purchase of a rental space, a resident organization has described in subdivision (k) of section 50781 of the Health and Safety Code. I am unable to express an opinion as to whether the transfers you described would qualify under this provision because insufficient information has been provided. The reference in subdivision (b) to "rental spaces" and "tenants of the rental spaces" makes clear that the persons in the mobilehome park occupying the spaces must be tenants paying rent to the entity owning the park. Further, the requirement that at least 51% of the spaces be "purchased by individual tenants" means that the tenant must exchange valuable consideration for the mobilehome space. (Revenue and Taxation Code Section 67

defines "purchased" as a change in ownership for consideration.) A transfer of the rental spaces without consideration would, in my opinion, not satisfy the requirements of the subdivision. Finally, you have not indicated whether the membership corporation would satisfy the definition "resident organization" found in section 50781 of the Health and Safety Code. Based on your description, it seems that it could qualify. Since it is already organized, it would apparently satisfy the requirement that such an organization be formed within one year after the first purchase of the rental space.

In conclusion, I do not believe the fact that the mobilehome park is now owned by a tenant membership corporation necessarily prevents the application of subdivision (b) to the proposed transfers of the individual spaces. Subdivision (b) may be applied as long as its requirements are satisfied.

The views expressed in this letter are, of course, advisory only and are not binding on the Riverside County Assessor. Our intention is to provide timely, courtesy and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,

Richard H. Ochsner
Assistant Chief Counsel

RHO:ba

cc: Mr. Gary Stange
Riverside County Assessor's Office

Mr. John Hagerty
Mr. Verne Walton
Mr. Arnold Fong

pristoj