



(916) 323-7711

June 18, 1982

Mr. E. Dan O'Connell
Colusa County Assessor
547 Market Street
Colusa, CA 95932

Attention: Ms. Yvette B. Stark
Assessment Roll Supervisor

Dear Ms. Stark:

This letter is in response to your request for our opinion on whether or not a probate homestead set apart for Beulah Oreglia qualifies for the homeowners' exemption. Beulah Oreglia is the surviving spouse of John Oreglia. Pursuant to the order setting apart the probate homestead, Mrs. Oreglia was awarded the exclusive use and responsibility for the maintenance of a five room house for her life or until her remarriage.

Probate Code, Section 661(d) provides that property set aside as a probate homestead remains subject to administration so that upon termination of the homestead right, title to the property vests in the heirs or devisees. See Law Revision Comment 1980 Amendment. Thus under Probate Code, Section 661(d), title does not vest in the person for whom the homestead was set apart. However, the heirs or devisees have no right to possession or enjoyment of the property while the homestead right exists. If Mrs. Oreglia does not remarry, she has a right to the exclusive use, possession and enjoyment of the property for the duration of her life. She also has the exclusive responsibility for maintenance of the property. These are all characteristics of an estate for life. See Morrison v. Barkan (1969) 124 Cal. App. 2d 267, 274-275. It is our position that such an interest qualifies for the homeowners' exemption.

Very truly yours,

Michela F. Hicks
Tax Counsel

MFH:fr

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson

Mr. Verne Walton
Mr. William Grommet