



STATE BOARD OF EQUALIZATION

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January 15, 2002

Honorable Robert Petersen
Santa Cruz County Assessor
701 Ocean Street
Santa Cruz, CA 95060

Attn: Mr. _____, Chief Deputy Assessor

Re: New Construction, Licensed Manufactured Home

Dear Mr. _____:

Your letter to former Deputy Director Richard C. Johnson, requesting our opinion about how to proceed with the assessment of a substantially remodeled manufactured home, was forwarded to the Legal Division for a response. For the reasons set forth below, it is our opinion that, because the manufactured home is subject to the Vehicle License Fee, the improvements to it are not subject to local property taxation. Neither do such improvements constitute "new construction" subjecting the manufactured home to local assessment. However, the foundation and the other structures newly constructed that are not part of and incorporated into the manufactured home, would be assessable improvements to real property.

Your inquiry involves a 1971, Department of Housing and Community Development licensed manufactured home. It was originally 1,440 square feet, with aluminum siding, a metal roof, and sat on jacks and piers. The contractor installed a "curb" foundation under the manufactured home. The "curb" is a concrete perimeter foundation which is poured around the coach. It is steel reinforced and has foundation bolts to attach a wooden sill. A cripple wall is built from the sill to the mobile home. The siding was replaced with stucco, which goes down to the concrete "curb." The entire roof was removed and replaced with a medium pitched hip roof with a tile covering. A bay window addition was installed on the front, and an addition was built on either side of the manufactured home. The interior was gutted to the studs, the subfloor was strengthened and all rough plumbing and wiring was replaced. Insulation was added throughout, and the walls and ceilings were sheetrocked. The windows were replaced with dual pane double hung. The interior and exterior doors were replaced. All of the interior is new and of high quality. The kitchen has good hardwood cabinets, tile counters, and built-in appliances. Your appraiser estimates that the rebuilt manufactured home, which is now 1,744 square feet, would be a quality 8.0 to 8.5. The owner of the coach reportedly spent approximately \$150,000 rebuilding this home. The photographs you enclose reflect a type of construction much more similar to a standard "stick-built" home than that normally found in a manufactured home.

You ask several questions, which are addressed specifically in modified form below. However, your primary concern is whether this substantial reconstruction on an HCD licensed manufactured home should be treated as “new construction” assessable for property tax purposes. The answer to your question is “no.”

The key fact is that, both before and after the remodeling you describe, this manufactured home was licensed by the state and subject to the Vehicle License Fee. Revenue and Taxation Code section 10758 provides, in part:

The license fee imposed under this part is in lieu of all taxes according to value levied for state or local purposes on vehicles of a type subject to registration under the Vehicle Code . . .

Exceptions to section 10758 are found in Revenue and Taxation Code sections 10784 and 10785, which provide, respectively, that the license fee imposed by Part 5 of Division 2 of the Code does not apply to any mobilehome which is sold and installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, or to any new mobilehome which is sold and installed for occupancy on or after July 1, 1980. Each section provides that manufactured homes fitting those descriptions “shall be subject to local property taxation.”

These exceptions, of course, match precisely with the definitions of manufactured homes which *are* subject to local property taxation set forth in Revenue and Taxation Code section 5801, The Manufactured Home Property Tax Law. (See § 5801, subs. (a)(1), (b)(1)). The clear interpretation of the code, therefore, is that manufactured homes first sold prior to 1980 and subject to the Vehicle License Fee are *not* subject to local property taxation.

Question 1: Should your office assess the added square footage and the alteration as new construction? No.

The occurrence of “new construction” on such manufactured homes does not change the fact that they are still subject to the Vehicle License Fee, or make them subject to property taxation. The definition of “new construction” set forth in Revenue and Taxation Code section 5825, subdivision (a) refers to a substantial addition to or alteration of a “manufactured home.” This definition is for the purpose of establishing a base year value pursuant to Revenue and Taxation Code section 5812. However, it is paramount to understand that “*As used in this part, ‘manufactured home’ means a manufactured home as defined*” in section 5801. As was discussed above, this definition *excludes* manufactured homes sold prior to 1980 which are subject to the Vehicle License Fee. Therefore, these “new construction” provisions are not applicable to the 1971 manufactured home in question.

The Mobilehomes – Manufactured Housing Act of 1980 (Health and Safety Code sections 18000 *et seq.*) addresses the taxation of manufactured homes subject to the Vehicle License Fee that have been newly constructed. Section 18115 provides, in part:

In the event any manufactured home, mobile home, or commercial coach subject to this article is modified or added to at a cost of two hundred dollars (\$200), or more, a copy of the building permit required for these modifications shall be entered in the permanent record of the manufactured home, mobile home, or commercial coach and the department [of Housing and Community Development] shall classify or reclassify the manufactured home, mobilehome, or commercial coach in its proper class as provided in Section 18115.5. . . .

Section 18115.5 provides for the “market value of a manufactured home, mobile home, or commercial coach subject to this article for each registration year of its life . . .” The Vehicle License Fee, of course, is determined by a percentage of the market value of the vehicle as determined by the department. Rev. & Tax. Code §10752.

Question 2: Did the manufactured home change status from a HCD licensed vehicle to real property following its attachment to a permanent foundation? No.

In your letter, you refer to a quotation from a superseded edition of Assessors’ Handbook Section 511, to the effect that, from a property tax standpoint, when a manufactured home is permanently attached to a foundation, the home has been “converted to real property” and is subject to property taxation, whether the foundation is legal or otherwise.¹ This reflects outdated law. As we explained in Letter to Assessors No. 92/57, 1990 legislation amending section 5801 made clear that only manufactured homes that are placed on foundation systems pursuant to Health and Safety Code section 18551 may be considered real property for property tax purposes. A copy of LTA 92/57 is enclosed for your review. Also enclosed is a copy of our July 19, 2000 opinion on this issue stating on page 2 that “obtaining the certificate of occupancy and having the appropriate document recorded are integral and necessary parts to affixing a manufactured home ‘to land on a permanent foundation pursuant to Section 18551 of the Health and Safety Code.’ If these integral and necessary things are not done, the manufactured home has not been so affixed.”

Thus, all of the requirements of section 18551 must be met in order for a manufactured home to become real property for property tax purposes. Since it does not appear that all such requirements have occurred with respect to the manufactured home which is the subject of your inquiry, in our view, that home would not have become locally taxable real property by virtue of being attached to a foundation.

Question 3: Is any portion of the remodel and alteration of a licensed manufactured home assessable as new construction and taxable on the local roll? Possibly as to accessories.

Revenue and Taxation Code section 70, subdivision (a)(1) defines new construction to include “any addition to real property, whether land or improvements (including fixtures).” Property Tax Rule 463 (a) states, “When real property, or a portion thereof, is newly constructed. . . the assessor shall ascertain the full value of such ‘newly

¹ Assessors’ Handbook 511 was updated and reissued in November 2001.

constructed property' as of the date of completion. This will establish a new base year full value for *only* that portion of the property which is newly constructed, whether it is an addition or alteration....”

Remodeling frequently involves physical alterations to a structure or a portion thereof that are beyond “normal maintenance and repair” defined in subdivision (b)(4) of Rule 463, and converts it to the substantial equivalent of a new structure, described in subdivision (b)(3). Certainly, the remodel and alteration of a “stick-built” home from 1440 square feet to 1744 square feet under the facts described here, would result in the alteration being assessed as new construction. Where, however, the remodel and alteration was made to a licensed manufactured home, the statutory classification of that home as a “vehicle” under Health and Safety Code §18115 precludes the home from being classified or assessed as real property. Therefore, the new construction provisions in Section 70 and Rule 463 do not apply.

Nevertheless, manufactured home accessories may be real property, and physical alteration or addition of such accessories or any portion thereof may constitute assessable new construction. To quote from the Board approved November 2001 edition of AH 511 (at page 42):

The statutory definition of *manufactured home accessory* includes both portable and permanently installed items. Section 18008.5 of the Health and Safety Code provides that accessories include, but are not limited to, awnings, storage cabinets, carports, skirting, heaters, coolers, fences, windbreaks, and porches. Accessories may be real or personal property but, unless they qualify as household furnishings within the context of the law,[fn] they are generally subject to local property taxation, whether or not the manufactured home to which they belong is subject to local property taxation.

However, inasmuch as you indicate that the manufactured home involved is a 1971 model located in a rental park, we are advising you of the exception to the foregoing conclusion found in Revenue and Taxation Code Section 5805. As discussed in the next subsequent paragraph on page 42 of AH 511:

As an exception, accessories installed on rented or leased land with a manufactured home first sold prior to January 1, 1977 are presumed to be subject to the VLF and not local property tax.[fn] Prior to 1977, the Department of Motor Vehicles applied the VLF to the entire purchase price of the manufactured home, including the value of any accessories. This presumption may be rebutted by the assessor presenting evidence that an accessory was not included in the VLF base for the manufactured home or was not otherwise subject to the VLF.

Therefore, to the extent it can be established that the manufactured home accessories constructed in conjunction with the remodeling of the subject manufactured home are not included in and subject to the Vehicle License Fee, they would, in our view, be assessed as new construction subject to local roll assessment.

Question 4: Would other licensed manufactured homes in same park that were remodeled and altered to the same extent on a new foundation be taxable on the local roll? No.

You ask, whether a manufactured home subject to the Vehicle License Fee remodeled to the extent of the subject home, and substantially new but without the foundation system, would be taxable on the local roll. Since we have concluded that the foundation being installed at the subject home undoubtedly would not meet all of the requirements of section 18551, other licensed manufacture homes would, in our view, be legally indistinguishable with respect to the subject home. As such, our analysis concluding that such homes would not be taxable as real property would be the same.

The views expressed in this letter are advisory only; 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.

Sincerely,

/s/ Daniel G. Nauman

Daniel G. Nauman
Senior Tax Counsel

Enclosures

DGN:eb

Prop/prec/newconst/01/01dgn.doc

cc: Mr. David Gau, MIC:63
Chief of PPSD, MIC:64
Mr. Charles Knudsen, MIC:62
Ms. Jennifer Willis, MIC:70