STATE OF CALIFORNIA

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Executive Secretary

December 24, 1986

No. 86/95

TO COUNTY ASSESSORS:

RESTATEMENT OF STATE BOARD OF EQUALIZATION VALUATION POLICY FOR SECTION 236 (HUD) HOUSING PROPERTY

It has come to our attention that the U.S. Department of Housing and Urban Development (HUD) now requires owners of these properties to closely scrutinize their property taxes. Failure to do so means that excess property taxes, as determined by an audit by the office of the United States Inspector General, will not be allowed for recapture in future rent increases.

This new policy, effective February 7, 1986, makes it incumbent upon the owners of HUD 236 properties to certify that:

1. The taxes have been reviewed and, where appropriate, appealed.

2. If an appeal results in a tax refund, the owner will return the refund to the project in the manner specified by HUD.

3. If the appeal results in a lower assessment, the owner will reduce the rents at the project commensurate with the reduced assessment unless HUD decides the rental income is needed for other operating expenses.

Additionally, a certification of tax review and appeal form must be completed by the owner or owner's agent. Falsification of this form shall result in a fine of not more than $10,000 or imprisonment for not more than five years pursuant to 18 U.S.C. 1001.

This new requirement has caused a reaction among owners of HUD 236 properties. Appeals have increased throughout the state, and certain tax service companies and agents have been extremely active in pursuing potential clients for assessment appeals.

Consequently, valuation methods utilized by counties in accordance with current Board policy, have come under fire. We have become aware of statements made that Board policy has changed recently making current policy obsolete.

Since this is not the case, the purpose of this letter is to restate Board policy on the valuation of HUD 236 properties. Board policy on HUD 236 properties is and continues to be consistent with Letter to Assessors 79/37 (copy included with this letter). Simply restated, the Board's policy is:

1. HUD 236 properties are restricted within the meaning of Revenue and Taxation Code Section 402.1.

2. The use of comparable market data other than from similarly resticted properties is precluded in any value approach.

3. Cash equivalent adjustments of HUD 236 properties' primary financing are inappropriate.

Proper cash equivalent adjustments have been the dominant issue of most appeals hearings generated by the tax service businesses and agents as a result of the HUD directive. The Board's position on cash equivalent adjustments for these properties remains the same as stated in Section V(c), Page 24 of Assessors' Handbook Section 501F, Cash Equivalent Analysis:

> "A distinction is made in the financing of property constructed under the auspices of the National Housing Act (specifically Section 236). The builder-developer receives a government subsidy in the form of the difference between a 1 percent and the prevailing interest rate. The private lender in making the loan determines the market interest rate and the federal government supplies the differential from 1 percent. Properties constructed under Section 236 can be sold; the selling prices, including the subsidized interest, are not subject to cash equivalent analysis. Moreover, the initial financing of Section 236 properties is not subject to cash equivalent analysis on the basis of the 1 percent-to market differential in the interest rate. 1/
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> 1/ For further legal reference in the valuation of Section 236 properties, see Section 402.9, Revenue and Taxation Code."

We hope the foregoing information makes clear the Board's position in the valuation and appeals hearing process pertaining to HUD 236 properties. Please contact our Technical Services Section at (916) 445-4982 if you have any further questions regarding this matter.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:wpc
Enclosure
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