



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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November 7, 2012

TO INTERESTED PARTIES:

ASSESSORS' HANDBOOK SECTION 410,
ASSESSMENT OF NEWLY CONSTRUCTED PROPERTY

On September 5, 2012, a third draft of Assessors' Handbook Section 410, *Assessment of Newly Constructed Property*, was distributed and interested parties were asked to comment on the draft. Enclosed is a matrix summarizing the comments received.

An interested parties meeting will be held on January 11, 2013 at the Board's headquarters in Sacramento, 450 N Street, Room 122, beginning at 9:30 a.m., to discuss proposed changes to the handbook. Subsequently, it is anticipated that AH 410 will be discussed before the Board at a Property Tax Committee meeting.

You may contact Ms. Sherrie Kinkle at skinkle@boe.ca.gov or at 916-274-3363 for further information regarding this meeting. If you would like to participate by teleconference, use 1-877-214-5010. The participant pass code is 217747. If you are unable to attend but would like to provide input for discussion at the meeting, please feel free to email your suggestions to Ms. Kinkle prior to January 4, 2013.

Document regarding this project are posted on the Board's website at www.boe.ca.gov/proptaxes/ah410_timeline.htm.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee, Chief
County-Assessed Properties Division

DRK:sk
Enclosure

**ASSESSORS' HANDBOOK SECTION 410, ASSESSMENT OF NEWLY CONSTRUCTED PROPERTY
ALTERNATIVE LANGUAGE/COMMENTS**

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
1	-	-	Cal Tax (D. Doerr)	<p>Comments: The California Taxpayers Association is very disappointed that our suggestions to improve the board's proposed handbook (AH 410) appear to have been rejected out-of-hand. Our intent was to be helpful to remove clearly illegal portions, as much of the document is very good.</p> <p>We cannot stress strongly enough that all the provisions that include "or portion thereof" with respect to a major renovation exceed statutory authority. In effect, as written, the board would be advising assessors to make illegal assessments. This language should be removed, as we suggested in our letter dated September 26, 2011.</p> <p>Section 70 (a) and (b) of the Revenue and Taxation Code reads as follows:</p> <p>§70. Newly constructed; new construction</p> <p>(a) "Newly constructed" and "new construction" means</p> <ol style="list-style-type: none"> 1. Any addition to real property, whether land or improvements, including fixtures, since the last lien date; and 2. Any alteration of land or of any improvement, including fixtures, since the last lien date that constitutes a major rehabilitation thereof or that converts the property to a different use. <p>(b) Any rehabilitation, renovation or modernization that converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of that improvement or fixture.</p> <p>This is the language that was suggested by the Task Force on Property Tax Administration. The phrase "or portion thereof" does not appear in subdivision (a) or (b).</p> <p>You cannot even read "or portion thereof" into Section 70 (a) and (b), because the Legislature clearly knew how to distinguish when "a portion thereof" would trigger reassessment as it used the phrase as a modifier in Section 70 (c), relating to property destroyed or damaged by a disaster.</p> <p>Section 70 (c) reads (emphasis added):</p> <p>(c) Notwithstanding subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction"</p>	Disagree—the handbook language is not contrary to law. See Property Tax Rule 463, which has been law since July 1978.

NO.	PAGE/LINE REFERENCE	SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
1 Cont			<p>does not mean any timely reconstruction of the real property, <u>or portion thereof</u>, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion that exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.</p> <p>Let us repeat, "or portion thereof" does not appear in subdivision (a) or (b) but is used in (c).</p> <p>We also are surprised that the text of Section 70 is not included in the appendix, and surmise that is missing because it would clearly show those provisions of the handbook using the phrase "or portion thereof" for other than disaster assessments are not correct.</p> <p>I was the chair of the Task Force, and recall that the discussion regarding new construction was heated, and the recommendations were not unanimous. In fact, the BOE disagreed with the language. However, the majority view of the task force was adopted by the Legislature. Just because the board did not agree with language does not allow the board to undermine the statute with a different approach.</p> <p>As I recall, several of the reasons for the limits on new construction assessment were:</p> <ol style="list-style-type: none"> 1. We wanted to limit the number of different base years attached to a single property that would occur if a reassessment of a portion of a structure was permitted. 2. We wanted to encourage property owners to renovate and remodel properties without fear of a reassessment. If a remodeling of a portion of a structure triggers a reassessment, it would have a chilling effect on the remodeling business. 3. We did not believe that the value added by remodeling a portion of a structure could be determined with great accuracy. The cost approach would not be appropriate, as the value of a structure usually is not increased commensurately with the cost of the remodeling. This is common knowledge in the remodeling business. To use the sales factor correctly, you would have to find a comparable structure with a sale before and after the same remodeling. The income approach also would not get us to the added value of any of the remodeled portion of a dwelling. <p>Even if you disagree with these reasons, you still have an obligation to implement the law, not change it.</p>	

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
2	-	-	Marin County Assessor (R. Benson)	Comment: Consider reviewing text to improve consistency, where possible, of the terms: new construction, assessable new construction, appraised and appraisal versus assess, assessed, and assessable, improvement or structure, and the sentence position of the terms "or portion" and "portion thereof."	No locations or alternative text provided. See Items 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26, 28, 30, 31, 34, 35, 40, 41, 44, 45, 46, & 49
3	4	3	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Rule 463(b)(4) expressly excludes from the definition of <u>assessable</u> new construction alterations performed for the purpose of normal maintenance and repair, such as routine annual preparation of agricultural land, interior or exterior painting, replacement of roof coverings, or the addition of aluminum siding.	Accepted
4	4	11	SBE Staff	Add sentence: <u>Throughout this text the term <i>assessable new construction</i> is used to denote construction activity which meets the definition of <i>new construction</i> pursuant to section 70 and Rule 463, and, therefore, which would require that the assessor make a determination as to whether value has been added.</u>	Accepted
5	4	12	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Section 70 and Rule 463 use various terms to explain the meaning of <u>assessable</u> new construction.	Accepted
6	4	27	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: An <i>alteration</i> is the act or process of altering; a modification or change. An alteration qualifies as <u>assessable</u> new construction when it:	Accepted
7	5	3	Marin County Assessor (R. Benson)	Revise sentence: Examples of assessable alterations include but are not limited to installation of:	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
8	5	20	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Normal maintenance keeps a property in condition to perform efficiently the service for which it is intended. Normal maintenance is not considered <u>assessable</u> new construction.	Accepted
9	5	23	Sacramento County Assessor's Office (J. Lewis)	Review sentence: The installation of new items that replace old items but provide a similar function is not considered <u>assessable</u> new construction. Examples of normal maintenance and repair that do not constitute <u>assessable</u> new construction are:	Accepted
10	6	2	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: <i>Remodeling</i> is changing the plan, form, or style of a structure to correct deficiencies. In remodeling, property is removed and other property of like utility is substituted. In some cases, remodeling may constitute <u>assessable</u> new construction.	Accepted
11	6	11	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: For property tax purposes, modernization implies curing functional obsolescence and physical deterioration to the degree that the structure or fixture is substantially equivalent to new. When this is achieved, modernization qualifies as <u>assessable</u> new construction.	Accepted
12	6	17	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: If rehabilitation makes a structure or fixture substantially equivalent to new, it qualifies as <u>assessable</u> new construction. For example, if a structure has been allowed to deteriorate to a point that it is nearly uninhabitable due to lack of normal maintenance and repair, the rehabilitation of that structure to cure all of the physical deterioration may be considered <u>assessable</u> new construction.	Accepted
13	6	25	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: Replacements made as normal maintenance and which do not make the entire improvement substantially equivalent to new are not considered <u>assessable</u> new construction. However, when replacements are as extensive and extreme as to make an improvement (or a portion) <i>like new</i> , then the work is considered <u>assessable</u> new construction.	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
14	6	31	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: <i>Renovation</i> is making a property into <i>like new</i> condition. Thus, in a literal sense, the renovation of an improvement (or a portion) means the improvement has been made substantially equivalent to new and is considered <u>assessable</u> new construction.	Accepted
15	8	3	Marin County Assessor (R. Benson)	Revise sentence: It is possible, however, that if enough components are altered or replaced in a relatively short amount of time, and these replacements substantially increase the value of the property, then major rehabilitation may have occurred and should be appraised <u>assessed</u> .	Accepted
16	8	7	Sacramento County Assessor's Office (J. Lewis)	Revise/rearrange sections: See Attachment A	Accepted
17	9	1	Marin County Assessor (R. Benson)	Comment: This table needs a labeled. It should be labeled "Table 2-1 List of Use-Types."	See Attachment A
18	11	13	Marin County Assessor (R. Benson)	Comment: Remove paragraph in its entirety. This text is included on page 8, lines 26-27.	See Attachment A
19	11	16	Marin County Assessor (R. Benson)	Comment: This table is redundant. It is the same table as shown on page 9 and should be removed.	See Attachment A
20	12	9	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: While not all additions and alterations qualify as new construction under section 70, the following table provides examples of common situations that usually do qualify as <u>assessable</u> new construction:	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
21	13	2	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: In general, the relocation of a structure from one parcel to another is <u>assessable</u> new construction.	Accepted
22	13	9	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: However, the relocation of a manufactured home without a change in ownership, whether in the same county or to another county, is not <u>assessable</u> new construction. The provisions of section 75.10, which provide that <u>assessable</u> new construction includes the removal of a <i>structure</i> from land, do not pertain to manufactured homes. A <i>structure</i> is real property, but a manufactured home is not classified as real property for property taxation purposes. ¹⁵ A manufactured home becomes real property only when it is installed on an approved foundation. ¹⁶ The addition of accessories (for example, awnings, skirting, decking, or a carport) following relocation of a manufactured home, however, would be considered <u>assessable</u> new construction. ¹⁷	Accepted
23	14	3	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The taxpayer's relocation of his home to the back of the same property would not be considered <u>assessable</u> new construction.	Accepted
24	20	25	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: In certain circumstances, the income approach may capture value attributable to more than just the qualifying <u>assessable</u> new construction.	Accepted
25	22	14	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Examples of alterations to land that would qualify as <u>assessable</u> new construction are:	Accepted
26	22	22	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Examples of alterations to land that may not qualify as <u>assessable</u> new construction to land are:	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
32	26	9	Marin County Assessor (R. Benson)	<p>Revise Table 3-1: Converting a garage into a living area</p> <p>Comment: This is not always true. For example, there are some areas where garaged parking has a greater value than, say a 4th bedroom or a den. In these cases, converting a garage could actually lower the market value of the improvements.</p>	Not accepted—the conversion of a garage into living area is assessable new construction activity. The "value" of that new construction is a made on a case-by-case basis by the assessor—either increasing the base year value or decreasing the base year value of the property.
33	27	1	Marin County Assessor (R. Benson)	<p>Change title of Table 3-2:</p> <p>EXAMPLES OF <u>INDIVIDUAL</u> ACTIVITIES THAT ARE NOT ASSESSABLE NEW CONSTRUCTION</p>	Not Accepted—the text is clear regarding the items listed in the table
34	27	3	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: Individually, the activities in Table 3-2 are not <u>assessable</u> new construction, but in combination or collectively they may constitute major rehabilitation, renovation, or modernization and may convert a structure into substantially equivalent to new.</p>	Accepted
35	27	9	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: When extensive renovation or rehabilitation of a property (or a portion of it) converts it into one that resembles a newly built property, the work is considered <u>assessable</u> new construction and the assessor is required to establish a new base year value.</p>	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
36	29	18	Marin County Assessor (R. Benson)	Revise sentence: Replacement and repair work <u>may</u> falls under normal maintenance and is, therefore, and may be excluded from assessment as new construction <u>if the repairs are replacements are not as extensive and extreme as to make an improvement (or a portion) like new.</u>	Not accepted—This section is "Normal Maintenance." Rule 463 (b)(4) provides "excluded from alterations that qualify as 'newly constructed' is construction or reconstruction performed for the purpose of normal maintenance and repair...."
37	29	21	Marin County Assessor (R. Benson)	Correct typo: A taxpayer purchased a 2,000 square-foot house (4 bedrooms, 3 bathrooms) for \$350,00, <u>\$350,000</u> , with \$250,000 allocated for improvement and \$100,000 for land.	Accepted
38	30	2	Marin County Assessor (R. Benson)	Comments: See Attachment B	Not Accepted
39	30	24	Sacramento County Assessor's Office (J. Lewis)	Add sentence: The extensive work that was done on the house was composed of both assessable new construction and nonassessable repairs and replacements. Installation of those items that were not in the house at the time of purchase, and therefore were not included in the purchase price and subsequent base year value, would be considered assessable new construction. Replacement of the unmaintained and worn items may be considered maintenance and repair. <u>On the other hand, all the work collectively may be sufficient to convert the house to the substantial equivalent of new.</u> However, the The facts in each instance should be decided on a case-by-case basis to determine whether or not the new construction activity transforms the improvement (or a portion) into a state that is substantially equivalent to new.	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
40	30	32	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: However, if the roof structure is redesigned to accept another roof cover, then that new roof structure is considered <u>assessable</u> new construction.	Accepted
41	31	6	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The work that was done in constructing the new roof would be considered <u>assessable</u> new construction. It has converted the "portion of" the structure that consists of the roof to a state that is substantially equivalent to new.	Accepted
42	39	2	Marin County Assessor (R. Benson)	<p>Comment: This is a bit unclear as the prior paragraph mentioned January 2003. For clarification purposes, although the cost mentioned on line 2 is for the calendar year 2002, it was reported as of the Lien Date 2003.</p> <p>Revise test: The total cost of construction reported by the owner for 2002 <u>Lien Date 2013</u> (\$100,000) was lower than the local norm (\$115,000). Certain work was done by the owner himself, while other work was done by specialized subcontractors. In either case, most of the reported costs did not reflect the true costs of construction, but represented a discounted cost as the owner used his extensive contacts within the industry to obtain favorable prices from subcontractors and materials suppliers. The appraiser enrolled true economic costs which more accurately reflected market costs.</p> <p>In January 2004, construction in progress was 90 percent complete, with the exception being the basement and yard improvements. Upon final inspection from the building department, the owner and his family moved into their new home on April 1, 2004. Reported cost of construction for 2004 was \$150,000. Total cost reported by the owner to date for improvements was \$100,000 in <u>for Lien Date</u> 2003 and \$150,000 in 2004 for a total of \$250,000.</p> <p>The county appraiser informed the owner that the date of completion is the date the property or a portion of it is available for use after final inspection by the appropriate governmental official, in this instance April 1, 2004. Furthermore, the county appraiser advised that on the date of completion, the completed portion of the newly constructed property must be appraised at its full market value. Any subsequent construction would be considered construction in progress and continue to be appraised at its market value on the lien date and every lien date thereafter. The base year value of the land was calculated as follows:</p> <ul style="list-style-type: none"> ● Acquisition of land in 2001 \$200,000 	Not accepted—a taxpayer does not report construction as of the lien date. The property would have been enrolled on the supplemental assessment roll as of the date of completion in 2002.

NO.	PAGE/LINE REFERENCE	SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION																																		
42 Cont			<ul style="list-style-type: none"> • Land improvements <u>\$41,000</u> • 2001 base year value of land <u>\$241,000</u> • <u>2001 base year value of land</u> <u>\$200,000</u> • <u>2002 base year value of land improvements</u> <u>\$41,000</u> <p>The county appraiser used the comparative sales method to estimate a total value of \$800,000. Properties with similar characteristics in the area were selling for \$800,000. Land parcels of similar size were selling for \$300,000. The value of improvements was calculated as follows:</p> <p style="padding-left: 40px;">\$800,000 - \$300,000 = \$500,000*</p> <p style="padding-left: 40px;">*Included an increment for the countywide school fees</p> <p>However, a portion of the \$500,000 value is reflected in the improvements to land. Assuming that the comparable properties have similar characteristics, an adjustment must be made to avoid double assessment</p> <p>The base year value of land and improvements was enrolled as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">2001 base year value of land</td> <td style="text-align: right;">\$241,000</td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>\$241,000</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>x1.05980</u></td> </tr> <tr> <td style="border-top: 1px solid black;">Adjusted base year value of land in 2004</td> <td style="text-align: right;"><u>\$255,412</u></td> </tr> <tr> <td style="border-top: 1px solid black;">2004 base year value of improvements</td> <td style="text-align: right;">\$500,000</td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>50,000</u></td> </tr> <tr> <td style="border-top: 1px solid black;">Current market value of improvements to land</td> <td style="text-align: right;"><u>\$450,000</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>\$255,412</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>+ \$450,000</u></td> </tr> <tr> <td style="border-top: 1px solid black;"><i>Total Assessed Value</i></td> <td style="text-align: right;"><u>\$705,412</u></td> </tr> <tr> <td style="border-top: 1px solid black;"><u>2001 base year value of land</u></td> <td style="text-align: right;"><u>\$200,00</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>x 1.05980</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>\$211,960</u></td> </tr> <tr> <td style="border-top: 1px solid black;"><u>2002 base year value of land</u></td> <td style="text-align: right;"><u>\$41,000</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>x 1.03904</u></td> </tr> <tr> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;"><u>\$42,601</u></td> </tr> <tr> <td style="border-top: 1px solid black;"><u>Adjusted base year value of land in 2004</u></td> <td style="text-align: right;"><u>\$254,561</u></td> </tr> </table>	2001 base year value of land	\$241,000		<u>\$241,000</u>		<u>x1.05980</u>	Adjusted base year value of land in 2004	<u>\$255,412</u>	2004 base year value of improvements	\$500,000		<u>50,000</u>	Current market value of improvements to land	<u>\$450,000</u>		<u>\$255,412</u>		<u>+ \$450,000</u>	<i>Total Assessed Value</i>	<u>\$705,412</u>	<u>2001 base year value of land</u>	<u>\$200,00</u>		<u>x 1.05980</u>		<u>\$211,960</u>	<u>2002 base year value of land</u>	<u>\$41,000</u>		<u>x 1.03904</u>		<u>\$42,601</u>	<u>Adjusted base year value of land in 2004</u>	<u>\$254,561</u>	
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48	72	26	Marin County Assessor (R. Benson)	<p>Revise sentence: On the other hand, when it is discovered that the property is contaminated after <u>before</u> the lien date but <u>and</u> before remediation begins, then the property may be eligible for a Proposition 8 decline in value.</p> <p>Or: On the other hand, when it is discovered that the property is contaminated after the lien date but <u>and</u> before remediation begins, then the property may be eligible for a Proposition 8 decline in value <u>on the subsequent lien date</u>.</p> <p>SBE Rewrite: On the other hand, when it is discovered that the property is <u>was</u> contaminated after <u>on</u> the lien date but <u>before</u> <u>and</u> remediation begins <u>has not begun</u>, then the property may be eligible for a Proposition 8 decline in value.</p>	See SBE Rewrite
49	79	2	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: The relocation of a manufactured home without a change in ownership, whether in the same county or to another county, is not <u>assessable</u> new construction.</p>	Accepted

Matrix Item # 16

Change in Use [Relocated section later in chapter]

Physical alterations that lead to a change in the way property is used the property to a different use qualify as new construction.¹ While the value added by the physical alteration is assessable, the value attributable solely to the change in use is not. (See *Alterations* above for a further discussion of this issue.)

There are five basic use types: agricultural, residential, commercial, industrial, and recreational. Any physical alteration of land or improvements that leads to a change from one of these use types to another would qualify as new construction.

Within each general use type there are sub-uses. Any physical alteration that leads to a change from one sub-use to another also qualifies as new construction, as indicated in the examples in Rule 463(b)(2). Thus, leveling dry farmland for use as irrigated row cropland, or laying gravel on a vacant lot for use as recreational vehicle storage, would both qualify as new construction. An alteration that does not lead to a change in use may nevertheless qualify as new construction. For example, a change from a peach orchard to a prune orchard would result in new construction not because of the change in use, but because one improvement is removed and another improvement, substantially equivalent to new, is added. Additionally, even an alteration that does qualify as a change in use will not cause reappraisal unless there is a substantial physical alteration leading to that change. When that occurs, only the additional value created by the new construction that facilitates the change in use may be assessed.

The following table lists general use types and sub-uses within each of the five basic classifications. It is not intended as an all inclusive list, but rather as an illustration. For example, a change from apartment to condominium would not require reappraisal unless there were physical alterations necessary for the conversion. Even with a physical alteration, only the newly constructed portions of the conversion would be subject to reappraisal.

Use Type	Sub-Uses	
Agricultural	<ul style="list-style-type: none"> • Undeveloped Land • Dry Farm • Orchards and Groves • Kiwis • Jojoba Beans 	<ul style="list-style-type: none"> • Irrigated Row and Field Crops • Grapevines • Asparagus • Bush Berries
Residential	<ul style="list-style-type: none"> • Single Family • Multi Family 	<ul style="list-style-type: none"> • Condominium • Time Share
Industrial	<ul style="list-style-type: none"> • Mining or Extraction • Manufacturing 	<ul style="list-style-type: none"> • Processing • Warehouse
Commercial	<ul style="list-style-type: none"> • Office Buildings • Financial Buildings 	<ul style="list-style-type: none"> • Cocktail Lounges • Food Sales

¹ Section 70(a)(2); Rule 463(b)(2), (3).
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	<ul style="list-style-type: none"> ● Retail Stores ● Professional Buildings ● Food Services 	<ul style="list-style-type: none"> ● Automotive Sales ● Service and Repair Shops
Recreational	<ul style="list-style-type: none"> ● Courts ● Clubhouses ● Ranges ● Tracks 	<ul style="list-style-type: none"> ● Swimming Pools ● Rinks ● Fields

Portion of an Improvement

New construction is any physical alteration of an improvement which converts the improvement, *or any portion of it*, to substantially equivalent to new or changes the way in which the portion of the improvement that was altered is used.² The value of the alteration, not necessarily its cost, will be added to the factored based base year value of the pre-existing structure.

In the context of newly constructed property, the term *portion* or *portion thereof* means a component of a land parcel, an individual structure, or fixture that is easily recognized. It is a part of an individual structure designed for independent, separate use such as a bathroom or kitchen. For example, a farmer might level only 40 acres for row crops of 640 acres of ranch land. That would be a change in use to a portion of the ranch. In an apartment building, each unit would be a portion designed for independent and separate use. The same would be true for a commercial strip shopping center with each bay being a portion.

Example 2-1

A property owner converts a 500-square foot garage into living space. The original residence had 1,500 square feet of living space with a 1979 base year value of \$50,000 (land \$15,000 and improvements \$35,000). An appraiser would consider the following data when appraising the new construction:

- Comparable homes of approximately 1,500 square feet with unconverted garages were selling for \$450,000 (land \$200,000 and improvements \$250,000).
- Homes of approximately 2,000 square feet with converted garages were selling for \$470,000 (land \$200,000 and improvements \$270,000).

All else being equal, the value attributable to the garage conversion is indicated by the difference between the market values of the homes with converted garages and the market values of the homes without converted garages (\$20,000).

Value enrolled is calculated as follows:

Land	\$15,000 x 1.75483 (2010 CPI factor)	\$26,323
Improvements	\$35,000 x 1.75483 (2010 CPI factor)	+61,419
Factored base year value		\$87,742
Plus value of new construction		+ <u>\$20,000</u>

² Rule 463(b)(3).
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Enrolled value \$107,742

Correct identification of a newly constructed portion of an improvement, identification of a portion of an improvement that is substantially equivalent to new, and estimating the market value of that portion is subject to appraisal judgment.

Property Use Types

Property uses fall under five general categories or types:

- Agricultural
- Residential
- Commercial
- Industrial
- Recreational

Any physical alteration of land or improvements that leads to a change from one of these use types to another qualifies as assessable new construction. ~~Within each general use type there are sub-uses. Physical alterations that lead to a change from one sub-use to another also qualify as new construction. Only the value added by the physical alteration may be assessed. Any increase in value attributable solely to the change in the property's use must be excluded from the value of the assessable new construction.~~

~~Examples of changes in use include:~~

- ~~• Site development of rural land for the purpose of establishing a residential subdivision;~~
- ~~• Altering rolling, dry grazing land to level irrigated crop land; and~~
- ~~• Preparing a vacant commercial lot for use as a parking facility.¹²~~
- ~~• Converting a single family residence into a duplex.~~
- ~~• Converting a garage into living area.~~

~~An alteration that does not lead to a change in use may nevertheless qualify as new construction. For example, a change from a peach orchard to a prune orchard would result in new construction, not because of the change in use, but because one improvement is removed and another improvement (substantially equivalent to new) is added.~~

Within each general use type there are sub-uses. Any physical alteration that leads to a change from one sub-use to another also qualifies as new construction, as indicated in the examples in Rule 463(b)(2). Thus, leveling dry farmland for use as irrigated row cropland, or laying gravel on a vacant lot for use as recreational vehicle storage, would both qualify as assessable new construction. An alteration that does not lead to a change in use may nevertheless qualify as assessable new construction. For example, a change from a peach orchard to a prune orchard would result in assessable new construction not because of the change in use, but because one improvement is removed and another improvement, substantially equivalent to new, is added. Additionally, even an alteration that does qualify as a change in use will not cause reappraisal unless there is a substantial physical alteration leading to that change. When that occurs, only the additional value created by the new construction that facilitates the change in use may be assessed.

The following table lists general use types and sub-uses within each of the five basic classifications. It is not intended as an all-inclusive list, but rather as an illustration. For example, a change from apartment to condominium would not require reappraisal unless there were physical alterations necessary for the conversion. Even with a physical alteration, only the newly constructed portions of the conversation would be subject to reappraisal.

~~In all cases, only the value added by the physical alteration may be assessed. Any increase in value attributable solely to the change in the property's use must be excluded from the value of the new construction.~~

~~The following table lists general use types and sub-uses within each of the five general types. It is not intended as an all-inclusive list, but rather as an illustration.~~

**TABLE 2-1
LIST OF USE-TYPES**

Use-Type	Sub-Uses	
<i>Agricultural</i>	Undeveloped Land Dry Farm Orchards and Groves Kiwis Jojoba Beans	Irrigated Row and Field Crops Grapevines Asparagus Bush Berries
<i>Residential</i>	Single-Family Multi-Family	Condominium Time-Share
<i>Industrial</i>	Mining or Extraction Manufacturing	Processing Warehousing
<i>Commercial</i>	Office Buildings Financial Buildings Retail Stores Professional Buildings Food Services	Cocktail Lounges Food Sales Automotive Sales Service and Repair Shops
<i>Recreational</i>	Courts Clubhouses Ranges Tracks	Swimming Pools Rinks Fields

Change in Use [Relocated from earlier in section]

Physical alterations that change the property to a different use qualify as assessable new construction.³ While the value added by the physical alteration is assessable, the value attributable solely to the change in use is not. (See *Alterations* above for a further discussion of this issue.)

³ Section 70(a)(2); Rule 463(b)(2), (3).

Examples of changes in use include:

- Site development of rural land for the purpose of establishing a residential subdivision;
- Altering rolling, dry grazing land to level irrigated crop land;
- Preparing a vacant commercial lot for use as a parking facility;⁴
- Converting a single-family residence into a duplex; and
- Converting a garage into living area.

Example 2-2

The owner of a Victorian single-family residence converts the property to a duplex by adding a kitchen to the second floor and an exterior staircase for separate access. An interior stairway is removed.

This is an example of a physical alteration leading to a change in use. Value attributable to the new construction can be added to the property's value. However, only the value added by the physical alteration may be assessed. Any increase in value attributable solely to the change in the property's use must be excluded from the value of the assessable new construction.

Common Types of New Construction

While not all additions and alterations qualify as new construction under section 70, the following table provides examples of common situations that usually do qualify as new construction:

**TABLE 2-2
COMMON TYPES OF NEW CONSTRUCTION**

Improvements	<ul style="list-style-type: none"> • New residential, commercial, or industrial buildings and related structures • Square footage added to existing structures, whether vertical or horizontal • Completing previously unfinished improvement areas such as basements, attics, and garages • In-ground swimming pools and spas • Porches and patios • Off-site infrastructure improvements such as utilities and sewers⁵ • On-site improvements such as curbs and gutters
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⁴ Rule 463(b)(2).

⁵ Off-site improvements may reflect nonassessable enhancements of land rather than assessable new construction. See discussions in Chapter 3, "New Construction of Off-Site Improvements" and Chapter 7, "Impact Fees, Development Fees, and Off-Site Improvements."

	<ul style="list-style-type: none"> • Converting a warehouse into a restaurant or office space • Incorporating additional improvements such as new interior partitions, walls, ceilings, lighting, restrooms, doors, floor coverings, windows, and wall coverings
<p><i>Land</i></p>	<ul style="list-style-type: none"> • Retaining walls • <u>Piles and caissons</u> • Land grading • Landfill • Altering vacant land for the purpose of establishing a residential, commercial, or industrial development • Developing range, grazing, or rolling land to irrigated row crops, trees, or vines • Developing vacant land for use as a parking facility • Ripping, tilling, leaching, or adding soil amendments to improve the productive capability of agricultural land

Matrix Item # 38

Original Text: Although extensive work was done on the house, the majority of the work was maintenance as it merely replaced old and deteriorated items with new ones of like kind. The taxpayer did not add any redesigned features to the house, nor did he improve it to the point that it was the substantial equivalent of a new home. No reappraisal of the base year value would be warranted.

Comments: Original text is in conflict with:

(i) The concept of page 29 lines 11-14, "The intent is to prevent reassessment of property when minor additions or alterations are completed. Such minor additions or alterations generally would not convert (for assessment purposes) a slightly improved property into one that is substantially equivalent to new.

(ii) Because this work done was extensive, the value and timing tests of page 7 should be applied. According to page 7, lines 21-36, the example fails to apply the handbook's own suggestions of applying a value added test and a timing test as a consideration to formulating a judgment "to determine whether the construction constitutes assessable new construction."

(iii) Pursuant to page 8, lines 3-6, the example fails to apply the handbook's own suggestions of applying a value added test and a timing test as a consideration to formulating a judgment "to determine whether construction constitutes assessable new construction."

(iv) From page 5 of the draft: "Normal maintenance is the action of continuing, carrying on, preserving, or retaining real property or fixtures in proper condition. Maintenance performed on real property is normal when it is regular, standard, and typical." This example identifies a house that was in poor condition with numerous elements of deferred maintenance. Had the improvement experienced "normal maintenance" its value would not have been lower than the selling price of comparatively sized homes. From page 6, lines 28-29; "when replacements are as extensive and extreme as to make an improvement (or a portion) like new, then the work is considered new construction." Because the construction work was characterized as "extensive" it may not have been constituted minor alterations and should be evaluated using the timing and value tests described above.

Recommended Text: Extensive work was done on the house, while some of the work was maintenance as it replaced old and deteriorated items with new ones the work was not regular, standard and typical. As stated on pages 6 and 25, when replacements are as extensive, extreme, or in combination as to make an improvement (or a portion thereof) substantially equivalent to new, then the work is considered assessable new construction. Because an appraiser must use judgment to determine whether any construction constitutes assessable new construction, as discussed on page 7, this determination and measurement indicates an appraisal of the improvement immediately before and after the new construction to estimate the value added, along with an estimate of the value of a comparable new improvement to determine if the value of the improvement (or portion) after new construction is substantially equivalent to the value of a comparable new improvement (or portion). After consideration of the value and timing tests, if enough components are altered or replaced in a relatively short amount of time, and these replacements substantially increase the value of the property, then major rehabilitation may have occurred and should be assessed. Determining when construction is substantially equivalent to new requires both appraisal judgment and evaluation of a case-by-case basis.

Alternate text: Alternate text options which would better characterize a non-assessable determination would be: (a) Changing the scenario with respect to timing, by either having the alterations carried out over a longer period of time to more realistically reflect normal, ongoing repairs and maintenance.

(b) Changing the scenario with respect to value, by either having a newer improvement in average condition in which the value of the improvement after construction is substantially equivalent to the value prior to construction. (c) Describe less "extensive" and valuable new construction components which would not conflict with the time and value added tests.

SBE Staff Comments:

Example 3-10 is in compliance with the provisions of Property Tax Rule 463(b)(4) regarding normal maintenance and repair. The example does not add any items to the existing property, but rather items are replaced or repaired.

(i) The Marin County Assessor refers to Page 29, lines 11-14, to illustrate that Example 3-10 is in conflict with other portions of the handbook. The text on Page 29 is under the heading "Additions or Alterations." It is not germane to "normal maintenance and repair." No items were added or altered in Example 3-10.

(ii) The Marin County Assessor refers to Page 7, lines 21-36, to illustrate that Example 3-10 is in conflict with other portions of the handbook, and states that the "value added and timing test" should apply. The text of Page 7 states: "Property owners may convert their properties to substantially equivalent to new by altering the existing structure to the point that it no longer resembles what was originally built." [Emphasis added.] The text on Page 7 is not germane to "normal maintenance and repair" as depicted in Example 3-10. Example 3-10 replaced or repaired existing items; it did not alter the property to the point that it no longer resembled what was originally built.

(iii) The Marin County Assessor refers to Page 8, lines 3-6, to illustrate that Example 3-10 is in conflict with other portions of the handbook. The text on Page 8 again involves the example where the property owner has altered the existing structure to the point that it no longer resembles what was originally built. The text on Page 8 is not germane to "normal maintenance and repair" as described in Example 3-10. Example 3-10 did not alter the property to the point that it no longer resembles what was originally built.

(iv) The Marin County Assessor refers to Pages 5 and 6 to illustrate that Example 3-10 is in conflict with other portions of the handbook. The text on Pages 5 and 6 discuss normal maintenance and repair as being regular, standard, and typical. The Marin County Assessor indicates that this has not occurred in the example. Example 3-10 states that the taxpayer purchased the property in poor condition, and then repaired and replaced worn or damaged items. The prior owner may not have performed repairs timely, but the current owner has done so. The installation of new items that replace old items but provide a similar function is not considered assessable new construction.

The Marin County Assessor also refers to the "value" test to determine whether the items repaired or replaced in Example 3-10 should be considered assessable new construction. "Value" is not a consideration in determining whether construction activity is assessable or not assessable. If the activity is to replace worn or damaged items with new items of like-kind (as indicated in Example 3-10), then the activity is normal maintenance and repair and not assessable new construction. Clearly, replacing an old item with a new item would involve adding value, but it is value that is not assessable for property taxation purposes.