

**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 style="padding-left: 40px;">§70. Newly constructed; new construction</p> <p style="padding-left: 80px;">(a) "Newly constructed" and "new construction" means</p> <p style="padding-left: 120px;">1. Any addition to real property, whether land or improvements, including fixtures, since the last lien date; and</p> <p style="padding-left: 120px;">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> <p style="padding-left: 80px;">(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 style="padding-left: 40px;">(c) Notwithstanding subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction"</p>	<p>Disagree—the handbook language is not contrary to law. See Revenue & Taxation Code section 71 (added in 1979) and Property Tax Rule 463, which has been law since July 1978.</p> <p>FN Added: Statutory reference to Revenue & Taxation Code section 71 added to third and fourth bullets on page 1.</p>

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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>	<p><i>Add sections 70 – 74.7 to handbook</i></p>

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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, 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 25, 27, 28, 30, 32, 34, 35, 36, 37, 38, 39, 41, 42, 44, 45, 50, 52, 60, 61, 67, 68, 69, 70, 71, 78, 84, 85, 88, 92, and 93.
3	3	9	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The full value of new construction is that portion of the increase in the value of the total property upon completion that is directly attributable to the <u>assessable new construction</u> .	Accepted
4	3	27	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: When an alteration is substantial enough to require reappraisal <u>qualify as assessable new construction</u> , only the value of the alteration will be added to the base year value of the pre-existing land.	Accepted
5	4	4	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Rule 463(b)(4) expressly excludes from the definition of <u>assessable new construction</u> 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
6	4	12	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

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7	4	17	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
8	4	20	SBE Staff	Add paragraph: <u>IMPROVEMENTS</u> <u>As used in this text, the term <i>improvement</i> is as provided in section 105 which states:</u> <u>"Improvements" includes: (a) All buildings, structures, fixtures, and fences erected on or affixed to the land.</u>	Accepted
9	5	4	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
10	5	10	Marin County Assessor (R. Benson)	Revise sentence: Examples of assessable alterations include but are not limited to installation of:	Accepted
11	5	25	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

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12	5	28	Sacramento County Assessor's Office (J. Lewis)	<p>Review sentence: The installation of new items that replace old items but provide a similar function is not <u>typically</u> considered <u>assessable</u> new construction. Examples of normal maintenance and repair that <u>on their own</u> do not constitute <u>assessable</u> new construction are:</p> <ul style="list-style-type: none"> • Installation of a new shake roof that replaces an existing composition shingle roof • Routine painting • Replacements or repairs that are periodically required during the life of the improvement, such as replacement of rain gutters <p><u>Purchasing a property in poor condition and then replacing multiple items is not standard and typical. Timing and scope of work must be considered to determine when maintenance and repair becomes rehabilitation and renovation that brings an improvement (or a portion of it) to the substantial equivalent of new. See following discussion of "Substantially Equivalent to New."</u></p>	Accepted
13	6	8	Sacramento County Assessor's Office (J. Lewis)	<p>Comment / Suggestion [affects much of Page 6]: We respectfully suggest changing the sequence in presenting the various new construction terms so that they form a progression from least to most likely to add value for assessable new construction. For instance, we recommend that Replacement be moved up the list, so that it would appear between Normal Maintenance and Repair and Remodeling. We also think it would be helpful to move Modernization farther down the page, to appear right before Renovation and Substantially Equivalent to New. Then Remodeling and Rehabilitation would appear together in sequence. We believe presenting the terms in this manner would help the reader's understanding of the progression of the concepts related to assessable new construction, from "Normal Maintenance and Repair" to "Substantially Equivalent To New". Thank you for your consideration to this suggestion!</p>	Accepted
14	6	10	Sacramento County Assessor's Office (J. Lewis)	<p>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 <u>of it</u>) <i>like new</i>, then the work is considered <u>assessable</u> new construction.</p>	Accepted the addition of "assessable"

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15	6	15	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: <i>Remodeling</i> is changing the plan, form, or style of a structure to correct <u>correct</u> 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.</p> <p>Comment: We don't think a deficiency needs to exist in order for remodeling to occur.</p>	Accepted
16	6	22	Sacramento County Assessor's Office (J. Lewis)	<p>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-house or other building <u>structure-house or other building</u> 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-house or other building <u>structure-house or other building</u> to cure all of the physical deterioration may be considered <u>assessable</u> new construction. Whether or not new construction activity transforms an improvement (or a portion <u>of it</u>) into a state that is substantially equivalent to new is a factual determination that must be made on a case-by-case basis.</p>	Accepted "assessable" Other suggestions not accepted
17	6	34	Sacramento County Assessor's Office (J. Lewis)	<p>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.</p>	Accepted
18	7	2	Sacramento County Assessor's Office (J. Lewis)	<p>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 <u>of it</u>) means the improvement has been made substantially equivalent to new and is considered <u>assessable</u> new construction.</p>	Accepted the addition of "assessable"
19	7	6	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: New construction is assessable when that new construction has converted a <u>structure, fixture or any other improvement (or a portion of it)</u> to a state <i>substantially equivalent to new</i>.</p> <p>SBE Rewrite: New construction is assessable when that new construction has converted a fixture or any other <u>an improvement (or a portion)</u> to a state <i>substantially equivalent to new</i>.</p>	See SBE Rewrite – improvement includes structures and fixtures

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20	7	12	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Section 70(b) provides that assessable new construction includes any major rehabilitation, renovation, or modernization which converts an improvement to the substantial equivalent of new. Whether or not new construction transforms an <u>a structure, fixture, or any other improvement or fixture</u> (or a portion of it) into a state that is substantially equivalent to new (into a state where its utility is comparable to new) is a factual determination that must be made on a case-by-case basis.	Not accepted
21	7	24	SBE Staff (requested at Chief Appraisers' Spring Conference)	Add example: See Attachment A.	See Attachment A

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22	8	8	Sacramento County Assessor's Office (J. Lewis) Marin County Assessor (R. Benson)	<p>Revise sentence: Property owners may convert their properties to substantially equivalent to new by altering the existing structure-improvement to the point that it no longer resembles what was originally built. In some situations, property owners use both additions and alterations to convert a structures-, fixture, or any other improvement into substantially equivalent to new.</p> <p>Revise sentence: “Property owners may convert their properties <u>(or a portion thereof)</u> to substantially equivalent to new <u>in the course of remodeling, modernization, rehabilitation, extensive and extreme replacements, or renovations</u> by altering the existing structures to the point that it no longer resembles what was originally built. In some situations, property owners use both additions and alterations to convert structures <u>improvements</u> into substantially equivalent to new <u>as further described above.</u>”</p> <p>Without qualification, staff’s comments and support of the existing text defining substantially equivalent to new can categorically exclude <i>all</i> alterations, replacements and repair construction so long as construction merely resembles what was originally built. Such an interpretation could directly conflict with Revenue and Taxation Code (RTC) §§70(a)(2), 70(b) and Property Tax Rule (PTR) 463(b)(2)(B)(3). <i>[Original text continues to be in conflict with 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.”]</i></p> <p>SBE Rewrite: <u>In the course of remodeling, modernization, rehabilitation, extensive or extreme replacements, or renovation, property owners may convert their properties to substantially equivalent to new by altering the existing structure-improvement to the point that it no longer resembles what was originally built. In some situations, property owners use both additions and alterations to convert structures <u>improvements</u> into substantially equivalent to new.</u></p>	See SBE Rewrite
23	8	15	Sacramento County Assessor's Office (J. Lewis)	<p>Revise bullet:</p> <ul style="list-style-type: none"> Value added – does the new construction cause the existing structure-improvement (or <u>portion of it</u>) to equal a substantial percentage of the value of a comparable new structure (or <u>portion thereof</u>)? Has the new construction caused the value of the existing structure-improvement to increase by a substantial amount? 	Accepted "improvement"

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24	8	26	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: Normal <u>maintenance and</u> repairs are typically carried out over a long period of time as the structure, <u>fixture, or any other improvement</u> ages and as certain parts become worn out and need replacing.</p> <p>SBE Rewrite: Normal <u>maintenance and</u> repairs are typically carried out over a long period of time as the structure <u>or fixture</u> ages and as certain parts become worn out and need replacing.</p>	See SBE Rewrite
25	8	31	Sacramento County Assessor's Office (J. Lewis) Marin County Assessor (R. Benson)	<p>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 as new construction.</u></p> <p>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></p>	Accepted
26	8	35	Sacramento County Assessor's Office (J. Lewis)	Revise/rearrange sections: See Attachment B.	Accepted
27	8	36	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentences: Assessable new <u>New</u> construction is any physical alteration of an improvement which converts the improvement, <i>or any portion of it</i>, to substantially equivalent to new or changes the way in which the portion of the improvement that was altered is used. The value of the alteration, not necessarily its cost, will be added to the factored based base year value of the pre-existing structure <u>improvement (including fixtures).</u></p> <p>In the context of newly constructed property, the term <i>portion or portion thereof</i> means a component of a land parcel, an individual structure, or fixture that is easily recognized. It is a part of an individual structure <u>or fixture</u> designed for independent, separate use such as a bathroom or kitchen <u>in a residence.</u></p>	See Attachment B

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28	10	2	Orange County Assessor's Office (L. Cota)	The handbook discusses five basic use types in Chapter 2. We are seeing mixed-use development with commercial and residential use on different floors of the same structure. How should these be designated?	No language suggested. Discussion item.
29	10	20	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Additionally, even an alteration that does qualify as a change in use will not cause reappraisal-reassessment unless there is a substantial physical alteration leading to that change.	Accepted – See Attachment B
30	10	25	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: For example, a change from apartment to condominium would not require reappraisal-reassessment 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-reassessment .	Accepted – See Attachment B
31	11	1	Marin County Assessor (R. Benson)	Comment: This table needs a labeled. It should be labeled "Table 2-1 List of Use-Types."	Accepted – See Attachment B
32	11	3	Marin County Assessor (R. Benson)	<p>Comment: Remove paragraph in its entirety from "Change in Use." This text is included under "Property Use Types."</p> <p>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.</p> <p>Comment: This table is redundant. It is the same table as shown on page 9 and should be removed.</p> <p style="text-align: center;">TABLE 2-1 LIST OF USE-TYPES</p>	Accepted – See Attachment B

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
33	12	11	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 – See Attachment B
34	12	15	Sacramento County Assessor's Office (J. Lewis)	<p>Revise two bullets of Table 2-2:</p> <p><i>Improvements</i></p> <ul style="list-style-type: none"> • New residential, commercial, or industrial buildings and related structures <u>and fixtures</u> • <u>Subdivision on-site improvements such as curbs and gutters grading, paving, curbs, gutters, sidewalks, drains, utilities, etc.</u> <p>Comment: The Dictionary of Real Estate Appraisal, 3rd Edition, Appraisal Institute, Chicago 1993, defines "site improvements" as "[i]mprovements on and off a site that make it suitable for its intended use or development. Onsite improvements include grading, landscaping, paving, and utility hookups; offsite improvements include streets, curbs, sidewalks, drains, and connecting utility lines."</p>	Accepted – See Attachment B
35	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
36	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. A manufactured home becomes real property only when it is installed on an approved foundation. 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.	Accepted

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37	14	1	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
38	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
39	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
40	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
41	23	5	Marin County Assessor (R. Benson)	Revise sentence: Comparable vacant <u>improved</u> properties were selling for \$500,000.	Accepted
42	23	26	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: Any substantial physical alteration of land which constitutes a major rehabilitation or results in a change in the way the property is used meets the definition of <u>assessable</u> new construction. When an alteration to land is substantial enough to require reappraisal <u>qualify as assessable new construction</u> , only the value of the alteration is added to the pre-existing base year value of the land.	Accepted

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46	26	7	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 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.
47	26	7	SBE Staff	<p>Revise Table 3-1:</p> <ul style="list-style-type: none"> • Fire protection systems installed <u>in new structures</u> after November 7, 1984 <p>Comment: Section 74(e) limits the exclusion to existing buildings.</p>	Accepted
48	27	2	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
49	27	2	SBE Staff	<p>Revise Table 3-2:</p> <ul style="list-style-type: none"> • Fire protection systems installed on or after November 7, 1984 in <u>existing buildings</u> which were in existence on that date—these include fire sprinklers, fire extinguishers, fire detection systems, and fire related egress improvements <p>Comment: Section 74(e) limits the exclusion to existing buildings without any qualification that the buildings had to be in existence on November 7, 1984.</p>	Accepted

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50	27	3	Sacramento County Assessor's Office (J. Lewis)	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.	Accepted						
51	27	5	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: An assessor must make a determination on a case-by-case basis based on the facts and appraisal judgment. Factors to consider may include <u>span of time</u> (see <u>discussion of substantially equivalent to new on page 7</u>), or the amount of existing value allocated to the roll for the improvement in question.</p> <p>Revise Sentence: Factors to consider may include <u>timing, scope, and</u> the amount of existing value allocated to the roll for the improvement in question.</p> <p>SBE Rewrite: An assessor must make a determination on a case-by-case basis based on the facts and appraisal judgment. Factors to consider may include <u>timing, scope, or</u> the amount of existing value allocated to the roll for the improvement in question.</p>	See SBE Rewrite						
52	28	2	Sacramento County Assessor's Office (J. Lewis)	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.	Accepted						
53	28	22	Sacramento County Assessor's Office (J. Lewis)	<p>Revise table:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 70%;"><u>Land value</u></td> <td style="text-align: right;">\$290,000</td> </tr> <tr> <td></td> <td style="text-align: right;">+120,000</td> </tr> <tr> <td>New base year value of repaired home</td> <td style="text-align: right;"><u>\$410,000</u></td> </tr> </table>	<u>Land value</u>	\$290,000		+120,000	New base year value of repaired home	<u>\$410,000</u>	Accepted
<u>Land value</u>	\$290,000										
	+120,000										
New base year value of repaired home	<u>\$410,000</u>										
54	29	19	Sacramento County Assessor's Office (J. Lewis)	Revise Section Title: NORMAL MAINTENANCE <u>OR RENOVATION?</u>	Not accepted						

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55	29	22	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..." No value test is prescribed by law for normal maintenance and repair.
56	29	24	Marin County Assessor (R. Benson) Sacramento County Assessor's Office (J. Lewis)	Revise Example 3-10. See Attachment C.	See Attachment C
57	29	25	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 – See Attachment C

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58	30	28	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 <u>normal</u> 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 <u>of it</u>) into a state that is substantially equivalent to new.	Accepted first two suggestions Do not accept "of it"
59	31	4	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
60	31	7	Sacramento County Assessor's Office (J. Lewis)	Comment / Question: Example 3-12 does add value for assessable new construction; is it there for contrast with Examples 3-10 and 3-11, or could it be placed elsewhere?	Example 12 contrast was purposeful.
61	31	12	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
62	34	24	SBE Staff	Add footnote: <i>Example 3-14</i> A property is acquired in May 2008 with a market value of \$400,000. The enrolled taxable value for January 1, 2009 is \$408,000 (\$400,000 increased by the 2% CPI ^{FN}). New construction takes place on the property and is completed in August 2009. <u>FN: Section 75.18.</u>	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION															
63	36	16	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: When a project is available for occupancy but is vacant simply for lack of tenants, it should be considered complete and a base year value established. Assume a high-rise structure <u>office building improvement</u> has the first level complete and the upper levels complete except for interior finishing on the lien date. The plans indicate that the upper levels will be finished as they are leased. In this case, the assessor should establish a base year value for the entire structure <u>office building improvement</u> as it exists on the lien date.	Not accepted															
64	36	32	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The treatment of the second building requires additional analysis. The assessor could assess the second building as construction in progress on one or possibly two lien dates. However, if the assessor determines that there are no definite plans to continue construction of the second building, the project cannot continue to be considered construction in progress, and the assessor should establish a base year value for the incomplete structure <u>improvements</u> .	Not accepted															
65	37	20 Case Study	Sacramento County Assessor's Office (J. Lewis)	<p>Comment: Is the January 10, 2002 date a supplemental value date or date the appraiser did the lien date check? Are the \$41,000 enrolled economic costs the value for the January 10, 2002 date?</p> <p>Revise sentence: Furthermore, the county appraiser advised that on the date of completion, the completed portion of the newly constructed property must be appraised <u>and assessed</u> at its full market value.</p> <p>Revise description of calculation:</p> <p>Land improvements <u>on value date 1/10/2002</u> \$41,000</p> <p>Revise calculation:</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> <td style="text-align: right;"><u>\$200,000</u></td> </tr> <tr> <td>2002 base year value of land improvements</td> <td></td> <td style="text-align: right;"><u>\$41,000</u></td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">\$241,000</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;"><u>x1.05980</u></td> </tr> <tr> <td>Adjusted base year value of land in 2004</td> <td></td> <td style="text-align: right;">\$255,412</td> </tr> </table>	2001 base year value of land	\$241,000	<u>\$200,000</u>	2002 base year value of land improvements		<u>\$41,000</u>			\$241,000			<u>x1.05980</u>	Adjusted base year value of land in 2004		\$255,412	See SBE Rewrite, Attachment D
2001 base year value of land	\$241,000	<u>\$200,000</u>																		
2002 base year value of land improvements		<u>\$41,000</u>																		
		\$241,000																		
		<u>x1.05980</u>																		
Adjusted base year value of land in 2004		\$255,412																		
			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>																

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
66	44	15	Marin County Assessor (R. Benson)	Correct typo: Where no application has been filed by the property owner, a <u>an</u> assessor may, within the provisions of an ordinance adopted by the board of supervisors, reassess a qualifying property and then notify the last known owner of the reassessment.	Accepted
67	44	25	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: However, if the rebuilding of the property results in <u>assessable</u> new construction as defined in Rule 463 (that is, the rebuilt property exceeds the substantial equivalent of the property prior to damage or destruction), a new base year value should be established for the newly constructed portion.	Accepted
68	46	9	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: Any reconstruction or replacement of a manufactured home subject to local property taxation which is not substantially equivalent to the damaged or destroyed manufactured home will be deemed to be <u>assessable</u> new construction, and a new base year value should be established for the newly constructed portion. The sum of the base year value of the damaged or destroyed manufactured home and the value of any <u>assessable</u> new construction will be enrolled as the base year value for the reconstructed or replacement manufactured home.	Accepted
69	46	21	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: New construction following damage to real property by a calamity or misfortune is not eligible for disaster relief if the rebuilt structure is <u>improvements are</u> not substantially equivalent to the property prior to damage or destruction. SBE Rewrite: New construction following damage to real property by a calamity or misfortune is not eligible for disaster relief if the rebuilt structure is <u>improvements are</u> not substantially equivalent to the property prior to damage or destruction. If any portion of the new construction exceeds substantial equivalence to the prior structure-improvement , then that portion will have a new base year value.	See SBE Rewrite
70	47	32	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The damage occurred gradually and over a period of time as the sodium accumulated in the soil. Therefore, the event that caused the damage does not qualify as a misfortune or calamity. The reconstruction to the property constitutes <u>assessable</u> new construction and should be appraised at market value and a new base year value established.	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
71	49	4	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: When a property that has been granted a seismic retrofitting exclusion undergoes a change in ownership, the entire property, including the previously excluded new construction, is reappraised <u>reassessed</u> at its current full cash value as of the date of transfer. The new construction exclusion is available only to the property owner who completes the construction; it is not passed along to subsequent owners.	Accepted
72	49	10	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Installation in an existing building <u>or structure</u> of any fire sprinkler system, fire detection system, fire-related egress, or other fire extinguishing system is excluded from the definition of new construction or newly constructed real property and is precluded from additional property tax assessment.	Accepted
73	50	10	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Section 74 excludes fire suppression systems and equipment that protect people, structures, fixtures, and personal property. The intent of the exclusion when approved by the voters and the Legislature in 1985 was to provide an incentive for owners of existing buildings <u>or structures</u> to install fire suppression and detection systems by providing a shield against any increase in property taxes. The new construction exclusion is available only to the property owner who completes the construction; it is not passed along to subsequent owners.	Accepted
74	51	5	SBE Staff	Correct upper case letter: The Legislature codified this provision by adding Section section 74.3 to the Revenue and Taxation Code.	Accepted
75	51	6	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: Proposition 177 expanded this exclusion to include all other buildings <u>or structures</u> . Section 74.6, which implements Proposition 177, applies to all existing buildings <u>or structures</u> <i>except</i> those dwellings eligible for exclusion under section 74.3.	Accepted
76	51	27	SBE Staff	Add sentences: <u>New construction associated with mental or emotional disabilities does not qualify for the exclusion under this section. However, any construction associated with physical impairment resulting from mental or emotional disabilities may qualify for this exclusion.</u>	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
77	52	24	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: It is within the judgment of a <u>an</u> assessor inspecting additions or modifications for which a claim under this section is made to establish that the new construction was in fact made for the purpose of making the dwelling more accessible to a disabled resident.	Accepted
78	53	8	Sacramento County Assessor's Office (J. Lewis)	Revise bullets: <ul style="list-style-type: none"> • Construction of an entirely new dwelling. However, the added value of any features in the home which specially adapt the home for use by a disabled person (for example, wider doorways, enlarged bathroom facilities, rails, or ramps) would be excluded from <u>assessable</u> new construction. • Pool or spa added under physician's orders. However, any special features or customization necessary in the pool or spa to make it more accessible to the disabled resident would be excluded from <u>assessable</u> new construction. 	Not accepted – such items are excluded from the definition of new construction
79	53	19	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: When a property that has been granted a disabled access exclusion undergoes a change in ownership, the entire property, including the previously excluded new construction, is reappraised <u>reassessed</u> at its current full cash value as of the date of transfer. The new construction exclusion is available only to the property owner who completed the construction; it is not passed along to subsequent owners.	Accepted
80	57	20	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: New construction of the active solar energy system should be excluded from new construction, but not assessment. <u>However, the property used in conjunction with the system, such as the storage buildings and fences, constitute assessable new construction.</u>	Accepted
81	60	1	SBE Staff	Move section: Move entire "Contaminated Properties" section from Chapter 6, Base Year Value Transfers, to Chapter 5, Exclusions. Remove FN reference to Form BOE-65-CP as this is the form for the base year value transfer, not the new construction exclusion.	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
82	62	4	Sacramento County Assessor's Office (J. Lewis)	<p>Revise bullets:</p> <ul style="list-style-type: none"> • Whether the remediation constitutes an addition to the property. Any addition to real property which does not have an applicable exclusion should be considered <u>assessable</u> new construction. The addition must be substantial. The addition of a new element is considered <u>assessable</u> new construction. • Whether the remediation alters the property. Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation of the property or which converts it to a different use is considered <u>assessable</u> new construction. • Whether the remediation is part of normal maintenance or repair. Normal maintenance and repair are excluded from alterations that qualify as <u>assessable</u> new construction. 	Accepted
83	63	1	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentence: The addition of the retaining wall and monitoring wells, which did not previously exist on the property, qualify as <u>assessable</u> new construction. The assessor must determine the market value of the new construction and establish a base year value.</p>	Accepted
84	63	13	Sacramento County Assessor's Office (J. Lewis)	<p>Revise sentences: Normally, the addition of adding new landfill is considered a substantial addition to land and may be considered <u>assessable</u> new construction. ¹⁵² However, the addition of adding the landfill in this case is not an addition of something that had not existed before but rather the replacement of replacing something removed and should not be considered <u>assessable</u> new construction.</p>	Accepted
85	63	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 before <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

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
86	64	18	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: Once a project is operational and functional, and it has entered the <i>operation and maintenance</i> phase, any further additions or alterations must be analyzed individually to see whether they constitute <u>assessable</u> new construction. However, assessors should presume that work during this phase is normal maintenance of the project and not new construction. Only when there is an addition or alteration which substantially heightens the rehabilitation, rather than just maintaining it, should operation and maintenance activities be considered <u>assessable</u> new construction.	Accepted
87	68	24	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: The owner notifies the assessor in writing within 30 days <u>six months</u> after completion of the new construction; Comment: LTA 2012/020	Accepted – Law change effective January 1, 2012 – Stats. 2011, Ch. 351 (SB 947)
88	68	30	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: This does not apply to a situation where a replacement dwelling is purchased and the base year value transferred, and then subsequently the <u>property owner demolishes the home</u> is demolished and a new home built in its place. This, in essence, would result in transferring the base year value a second time to the replacement home. Under these circumstances, the newly constructed home should be re assessed as new construction <u>and given a new base year value.</u> SBE Rewrite: This does not apply to a situation where a replacement dwelling is purchased and the base year value transferred, and then subsequently the <u>property owner demolishes the home</u> is demolished and <u>builds a new home</u> built in its place. This, in essence, would result in transferring the base year value a second time to the replacement home. Under these circumstances, the newly constructed home should be re assessed as new construction <u>and given a new base year value.</u>	See SBE Rewrite
89	73	23	SBE Staff	Move and replace section: Move entire "Contaminated Properties" section from Chapter 6, Base Year Value Transfers, to Chapter 5, Exclusions. Add new "Contaminated Properties" section to Chapter 6, Base Year Value Transfers (see Attachment E).	Accepted – See Attachment E
90	78	22	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: When a new subdivision map is filed and new lot parcels are created, there are no grounds for reappraisal-reassessment . The base year value placed on the lots should be an allocated portion of the prior base year value of the total acreage involved. The value should be allocated to the portion of the property designated as streets and right-of-ways as well as to the lots. Allocation may be done in several ways, but in those instances where the lots are relatively equal in utility, a square-foot basis is generally preferred.	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	SBE STAFF POSITION
91	78	32	Sacramento County Assessor's Office (J. Lewis)	Revise sentences: Official acceptance occurs, almost invariably, after the <u>off-site</u> improvements (streets, gutters -curbs, sidewalks, drainage, utilities, etc.) are completed by the contractor. At this time, another resolution is filed indicating the acceptance of both the right-of-ways and improvements in the city/county road system. This is the key document that establishes the date the street area becomes exempt from taxation. Because of the sequence of events, the street improvements, as well as all lot improvements, remain taxable to the developer until the second resolution is filed.	Accepted
92	80	1	Sacramento County Assessor's Office (J. Lewis)	Revise sentence: This consideration affects whether the improvements are to be assessed in fee to the lessee or as a <u>taxable</u> possessory interest.	Accepted
93	80	4	Sacramento County Assessor's Office (J. Lewis)	Revise bullets: <ul style="list-style-type: none"> • If a lessee constructs improvements on tax-exempt land and retains ownership of a fee simple or life estate in the improvements, the improvements are to be valued in fee to the lessee, and a renewal of the land lease would not cause a reappraisal-<u>reassessment</u> of the improvements. • If a lessee constructs improvements on tax-exempt land and the improvements constructed by the lessee become the property of the public agency owning the land, the lessee would have a taxable possessory interest in the improvements and a renewal of the land lease would cause a reappraisal-<u>reassessment</u> of the possessory interest in both the land and improvements. 	Accepted
94	81	2	Sacramento County Assessor's Office (J. Lewis)	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. The provisions of section 75.10, which provide that 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, and a manufactured home is not classified as real property for property taxation purposes, unless it is installed on an approved foundation. The addition of accessories, such as awnings, skirting, decking, or carport, following relocation of a manufactured home, however, would be considered <u>assessable</u> new construction.	Accepted

Matrix Item 21

Example 2-1:

A 20,000 square-foot office building sold for \$3 million in July 2000. The building was 20 years old, had been in the same ownership since it was constructed, was in fair condition on the date of sale, and was 100 percent vacant. The tenant improvements were deemed to have no value at the time of sale. Shortly after the sale, the new owner removed and replaced all of the tenant improvements. At that time the assessor assigned the tenant improvements a base year value of \$40 per square foot.

In December 2010, the owner leases the building and replaces all of the tenant improvements over the leased area. The cost of the tenant improvements is estimated to be \$60 per square foot. All of the tenant improvements are similar in quality to those that existed prior to the new leases.

The assessor deems the installation of the new tenant improvements to be a modernization that converts the portions modernized to "substantially equivalent to new." The assessor values the new construction as follows:

<u>Value of New Tenant Improvements: 20,000 sq. ft. x \$60/sq. ft.</u>	<u>\$1,200,000</u>
<u>Less: Adjusted Base Year Value of Removed Tenant Improvements</u>	
<u>20,000 sq. ft. x \$40/sq. ft. = \$ 800,000 x 1.1907</u>	<u>(\$ 952,564)</u>
<u>Net Value Added for New Construction:</u>	<u>\$ 247,436</u>

Matrix Item # 26

Change in Use [Relocated section later in chapter]

Physical alterations that lead to a change in the way property is used to a different use qualify as new construction.[†] 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 • Retail Stores 	<ul style="list-style-type: none"> • Cocktail Lounges • Food Sales • Automotive Sales

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

	<ul style="list-style-type: none"> ● Professional Buildings ● Food Services 	<ul style="list-style-type: none"> ● 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

Assessable ~~n~~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~~improvement (including fixtures).

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 or fixture designed for independent, separate use such as a bathroom or kitchen in a residence. It is also an easily recognized major component, such as leasehold improvements in a commercial building as distinct from the building shell. 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 2-2

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).
AH 410 Draft 4

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, such as conversion from apartment to condominium (or vice versa), will not

cause reassessment 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.)

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 2-3

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 assessable new construction:

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

<i>Improvements</i>	<ul style="list-style-type: none"> • New residential, commercial, or industrial buildings and related structures <u>and fixtures</u> • 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
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³ Section 70(a)(2); Rule 463(b)(2), (3).

⁴ Rule 463(b)(2).

	<ul style="list-style-type: none"> • Porches and patios • Off-site infrastructure improvements such as utilities and sewers⁵ • <u>Subdivision</u> On-site improvements such as <u>grading, paving, curbs, and gutters, sidewalks, drains, utilities, etc.</u> • 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

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."

Matrix Item # 56

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:

(iv) The concept of page 29 lines 15-18, "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 12-25, 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 12-13; "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.

(iv) 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.

Additional Comments by Sacramento County:

Revise Sentence: The purchase price was lower than the average selling price of comparably sized homes and reflected the ~~poor~~ fair condition of the house.

Attachment C

Comment: Our interpretation of the purpose of Example 3-10 is to illustrate that several items of maintenance and repair can be done on a structure to cure a certain amount of deferred maintenance without becoming assessable new construction. In order to keep the example most clear and unambiguous, we respectfully recommend changing some of the wording, such as the suggestion above and in our next two items on the word “remodeled”. Thank you for your consideration!

Revise Sentence: ~~Remodeled all three bathrooms by installing new shower enclosures, bath fixtures, and tile floors.~~ Installed new bathroom fixtures in all three bathrooms.

Comment: The definition of ‘Remodeling’ given in Chapter 2 on Page 6, lines 1-6 includes provision for adding value for assessable new construction. That does not seem to be the point Example 3-10 is trying to make. We think that removing the word ‘remodeling’ and using the plainer phrasing same as in following Example 3-11 will help the readers’ understanding of Example 3-10 and alleviate confusion.

Revise Sentence: ~~Remodeled the kitchen by replacing the old appliances with new mid-range appliances; replacing the old countertops with tile counters; and replacing the old countertops with tile counters, and replacing the old linoleum flooring with new linoleum.~~ Installed new kitchen countertops, kitchen sink, and appliances.

Comment: See above comment regarding the use of the term “Remodeling”.

Replace Sentence: ~~No reappraisal of the base year value would be warranted.~~ If such is the assessor's judgment, then the property would retain its base year value.

Replace Sentence: ~~No appraisal of the base year value would be warranted.~~ No value would be added for assessable new construction.

Comment: If all the work described in Example 3-10 is determined non-assessable, there is no need to mention appraisal (?) or reassessment of the base year value. We recommend striking this sentence and adding one that simply says “no value added”.

Additional Comments by Marin County:

Attachment C [Feb. 2013 Matrix. Pg. 33 Staff Comments (i). Staff states the Assessor’s reference is under “Additions and Alterations” and is incorrect. In fact, pg. 29, lines 11-14 addresses additions AND alterations. If the construction in Example 3-10 meet the test of alterations as argued, then the Assessor’s reference is appropriate. The definition of alteration on page 4, lines 27-29 support this position.

Attachment C [Feb. 2013 Matrix. Pg. 33 Staff Comment (ii). In denying the Marin Assessor’s recommendation, staff supports and paraphrases the draft text “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.” No Constitutional, statutory, or regulatory authority exists to remotely suggest that “substantially equivalent to new” only means changing a structure to the point that is no longer resembled what was originally built. Such an interpretation could directly conflict with RTC §§70(a)(2), 70(b) and PTR 463(b)(2)(B)(3). Accordingly, the Marin Assessor’s references to page 7, lines 21-36, are on-point. The references on page 7, lines 21-36 describe what “substantially equivalent to new” means. For appraisers, hardly anything could be more explanatory to describe “substantially equivalent to new” other than the comparative value of something new.

Attachment C [Feb. 2013 Matrix. Pg. 33], Staff Comment (iv). Staff comments recognize that the construction was not done timely, which can be a requirement in meeting the definitions of normal maintenance and repair being regular, standard, and typical, as defined on page 5 of the draft. However, staff comments suggest that these parameters do not apply because of a change in ownership. Such an interpretation could directly conflict with RTC §§70(a)(2), 70(b) and PTR 463(b)(2)(B)(3), which contain no references relative to ownership, or changes in ownership, and it is requested that staff

AH 410 Draft 4

identify the external source to reach this conclusion other than the internal reference in this handbook. Staff comments ¶ 2 state that “value is not a consideration in determining whether construction activity is assessable or not assessable.” Clearly, if no “value” is added, no value can be assessed, and thus by definition requires that value be a consideration in determining whether construction is assessable. Further, if value is not a consideration then staff would have omitted lines 23-30 of page 7 and lines 3-6 of page 8.

Note: the following recommendation is re-submitted based on responses to the staff comments below. 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 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 constituted minor alterations and should be evaluated using the timing and value tests described above.]

Revise sentence: “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 on a case-by-case basis.”

[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 timing and value added tests.

SBE Rewrite:***Example 3-10***

A taxpayer purchased a 2,000 square-foot house (4 bedrooms, 3 bathrooms) for \$350,000 with \$250,000 allocated for improvement and \$100,000 for land. The purchase price was lower than the average selling price of comparably sized homes and reflected the ~~poor~~ fair condition of the house. Subsequently, over a four-year period, the taxpayer made the following repairs and replacements to the house:

Year 1:

- Painted the house inside and out.
- Replaced the lawns in the front and backyards and planted new trees and flowers to replace the dead trees and shrubs.
- Replaced the old deteriorated fence with new redwood fencing.

Year 2:

- ~~Remodeled all three bathrooms by installing new shower enclosures, bath fixtures, and tile floors.~~ Installed new shower enclosures, bath fixtures, and tile floors in all three bathrooms.

Year 3:

- ~~Remodeled the kitchen by replacing the old appliances with new mid-range appliances; replacing the old countertops with tile counters; and replacing the old linoleum flooring with new linoleum.~~ Installed new kitchen countertops, sink, appliances, and flooring.
- ~~No work was done on the foundation, and no new square footage was added.~~

Year 4:

- Replaced the old wood shingle roof (no change to the pitch) with new composition shingles. The gutters and downspouts were also replaced.

Although ~~extensive~~ substantial 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. No work was done on the foundation, and no new square footage was added. 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.~~ Thus, no assessable new construction occurred.

Matrix Item # 65

Sacramento County Comment: Is the January 10, 2002 date a supplemental value date or date the appraiser did the lien date check? Are the \$41,000 enrolled economic costs the value for the January 10, 2002 date?

Sacramento County Comment: Revise sentence: Furthermore, the county appraiser advised that on the date of completion, the completed portion of the newly constructed property must be appraised and assessed at its full market value.

Sacramento County Comment: Revise description of calculation:

Land improvements on value date 1/10/2002 \$41,000

Sacramento County Comment: Revise calculation:

2001 base year value of land	\$241,000	\$200,000
<u>2002 base year value of land improvements</u>		<u>\$41,000</u>
	\$241,000	
	x1.05980	
Adjusted base year value of land in 2004	\$255,412	

Marin County 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.

Marin County Comment: Revise test: The total cost of construction reported by the owner for ~~2002~~ Lien Date 2003 (\$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.

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~~ for Lien Date 2003 and \$150,000 in 2004 for a total of \$250,000.

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:

• Acquisition of land in 2001	\$200,000
• Land improvements	\$41,000
• 2001 base year value of land	<u>\$241,000</u>
• 2001 base year value of land	<u>\$200,000</u>
• 2002 base year value of land improvements	<u>\$41,000</u>

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:

$$\$800,000 - \$300,000 = \$500,000^*$$

*Included an increment for the countywide school fees

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

The base year value of land and improvements was enrolled as follows:

2001 base year value of land	\$241,000
	<u>\$241,000</u>
	<u>x 1.05980</u>
Adjusted base year value of land in 2004	\$255,412
2004 base year value of improvements	\$500,000
	<u>-50,000</u>
Current market value of improvements to land	\$450,000
	<u>\$255,412</u>
	<u>+ \$450,000</u>
Total Assessed Value	<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>
<u>2004 base year value of improvements</u>	<u>-50,000</u>
<u>Current market value of improvement to land</u>	<u>\$450,000</u>
	<u>\$254,561</u>
	<u>+ \$450,000</u>
Total Assessed Value	<u>\$704,561</u>

The assessor enrolled a base year value of \$705,412 ~~\$704,561~~ for the property as of the date of completion of the new construction, April 1, 2004 to the supplemental roll. The allocation was \$450,000 for improvements and \$255,412 ~~\$254,561~~ for land.

SBE Rewrite:

Case Study

In ~~May~~ July 2001, a taxpayer who was a building contractor purchased a five-acre lot for \$200,000. On this lot he planned to construct a 5,000 square-foot home to be used as his personal residence. He obtained a building permit on ~~August~~ September 1, 2001 at a cost of \$3,000. In addition, the owner had to submit a soil report at a cost of \$4,000. School fees at a rate of \$3.75 per square foot ($\$3.75 \times 5,000$ square feet = \$18,000) were also required for all new construction within the county. On ~~lien date, January 1, 2002~~ November 1, 2001, the owner had completed phase one of the project, which included the following alterations to the land:

- Site preparation work was completed ~~on October 1, 2001~~. This work included grading and leveling two acres at a cost of \$7,000. The owner graded the land himself. The cost of grading reflected only the rental of the earth moving equipment and grading plans.
- ~~On November 1, 2001, he~~ The owner completed a six-inch thick retaining wall made of steel, concrete, and stone. The retaining wall was six feet high and 120 feet long. In building the wall, the owner used materials that were left over from prior building projects. The total cost of building the retaining wall was \$7,000 consisting mostly of labor and some materials.

On December 1, 2001, the owner obtained a set of architectural design plans for a 5,000 square-foot house with six bedrooms and six bathrooms for \$15,000. Also included in the plans were designs for the construction of a modern barn and in-law quarters.

~~On January 10, 2002,~~ The appraiser from the assessor's office appraised the completed new construction to the land. She noted that since the owner is also the builder, ~~certain reported~~ the owner's costs may not reflect the true market cost of construction. She evaluated the costs ~~reported~~ provided by the owner and compared them to true economic costs as follows:

- Cost of leveling and grading similar land sites in the county is \$10,000 per acre. She enrolled \$20,000 for land leveling and grading of the two acres of the subject lot completed on November 1, 2001.
- The ~~owner reported~~ cost of the retaining wall provided by the owner was not consistent with local norms. The county appraiser determined that the retaining wall should be considered land improvements.⁶ The county appraiser used Assessors' Handbook Section 531, *Residential Building Costs*,⁷ to obtain an estimated cost of building the retaining wall. She enrolled \$14,000 for the retaining wall completed on November 1.

The county appraiser's treatment of the first phase of the construction, considering actual costs versus economic costs, is shown below.

⁶ Rule 121 provides that when materials, such as concrete, are added to land to render it amenable to being built upon, the land together with the added materials remains land.

⁷ Published annually by the State Board of Equalization.

Phase One of the Construction		
Description	Owner's-Reported Costs	Economic Costs (Enrolled)
Grading and Leveling (2 acres)	\$7,000	\$20,000
Retaining Wall	\$7,000	\$14,000
Building Permit Fee	\$3,000	\$3,000
Soil Report Cost	\$4,000	\$4,000
Total Phase One Costs	\$21,000	\$41,000

In 2002, the county appraiser analyzed comparable vacant lot sales, confirmed that the purchase price of the land represented market value, and enrolled a supplemental assessment of \$200,000 for the change in ownership of the land. The county appraiser set a base year value for the completed land improvements and enrolled a supplemental assessment of \$41,000.

In January 2003, the county appraiser returned to the property to inspect phase two of the construction and to appraise the construction in progress. She noted the following had taken place:

Phase Two of the Construction		
Description	Owner's-Reported Costs	Economic Costs (Enrolled)
Foundation	\$20,000	\$20,000
Framing	\$15,000	\$25,000
Roof	\$20,000	\$20,000
Sheathing and Stucco	\$10,000	\$12,000
Electrical Rough-ins	\$10,000	\$13,000
Plumbing Rough-ins	\$15,000	\$15,000
Architectural Plan Fee	*\$10,000	*\$10,000
Total Phase Two Costs	\$100,000	\$115,000

*Prorate to exclude fee for design of the barn and in-law quarters

The total cost of construction reported provided by the owner for 2002 (\$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 owner's 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.

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. According to the owner, cost of construction for 2004 was \$150,000. Total cost reported provided by the owner to date for improvements was \$100,000 in 2003 and \$150,000 in 2004 for a total of \$250,000.

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,⁸ 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

⁸ Rule 463(e).
AH 410 Draft 4

Attachment D

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:~~

- ~~• Acquisition of land in 2002 base year value of land ————— \$200,000~~
- ~~• 2002 base year value of land improvements ————— \$41,000~~
- ~~• 2002 base year value of land ————— \$241,000~~

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:

$$\$800,000 - \$300,000 = \$500,000^*$$

*Included an increment for the countywide school fees

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.

The base year value of land and improvements was enrolled as follows:

2002 base year value of land	\$241,000
	<u>\$241,000</u>
	x 1.05980 1.03904
Adjusted base year value of land in 2004	\$255,412 250,408
2004 base year <u>Current market</u> value of improvements	\$500,000
<u>Less: Current market value of improvements to land</u>	-50,000
Current market <u>Base Year</u> value of improvements to land	\$450,000
	<u>x 1.01867</u>
Adjusted base year value of improvements	\$458,401
<u>Adjusted base year value of land</u>	\$255,412 250,408
<u>Adjusted base year value of improvement</u>	+\$458,401
<i>Total 2004 Assessed Value</i>	<u>\$705,412</u> 708,809

The assessor enrolled a base year value of ~~\$705,412~~ 450,000 for the house as of the date of completion of the new construction, April 1, 2004 on the supplemental roll. ~~The allocation was \$450,000 for improvements and \$255,412 250,408 for land.~~

For the 2004-05 assessment roll, the assessor enrolled a factored base year value of ~~\$705,412~~ 708,809 for the property as of the date of completion of the new construction, April 1, 2004. The allocation was \$458,401 for improvements and ~~\$255,412~~ 250,408 for land.

Matrix Item # 89

Contaminated Properties

Article XIII A, section 2(i) of the California Constitution (1) provides for the transfer of the base year value of qualified contaminated property to a replacement property, and (2) excludes from the definition of new construction any repairs to or replacement of property necessary to remediate environmental problems on qualified contaminated property.⁹ A *qualified contaminated property* is real property that has been rendered uninhabitable or unusable by the presence or remediation of environmental problems and is located on a site that a state or federal agency has designated as a toxic or environmental hazard or as an environmental clean-up site.¹⁰

Statutory Provisions

Section 69.4 allows a property owner to sell or otherwise transfer a qualified contaminated property and transfer its base year value to a comparable replacement property of equal or lesser value that is purchased or newly constructed within five years after the sale or transfer of the qualified contaminated property.¹¹ If, prior to the sale, the property owner repairs or reconstructs the damaged improvement and receives the new construction exclusion under section 74.7, then the base year value cannot be transferred to a replacement property.¹²

Both the qualified contaminated property and the replacement property must be located in the *same* county. If not, the county in which the replacement property is located must have a resolution authorizing intercounty transfers under section 69.4. However, as of the date of this handbook, none of the 58 counties has passed such a resolution.

Comparable

Comparable means a replacement property is similar in utility and function to the property that it replaces. Property is similar in function and utility if it is, or is intended to be, used in the same manner as a qualified contaminated property.¹³

Value Comparison

The replacement property must be of equal or lesser value as compared to the original property. *Equal or lesser value* means the fair market value of the replacement property on the date of purchase or completion of new construction cannot exceed:¹⁴

- **105 percent** of the fair market value of the original property as if uncontaminated if a replacement property is purchased or newly constructed within the **first year** following the date of sale or transfer of the original property.
- **110 percent** of the fair market value of the original property as if uncontaminated if a replacement property is purchased or newly constructed within the **second year** following the date of sale or transfer of the original property.
- **115 percent** of the fair market value of the original property immediately as if uncontaminated if a replacement property is purchased or newly constructed within the **third year** following the date of sale or transfer of the original property.

⁹ See Chapter 5 for a discussion of the new construction exclusion.

¹⁰ California Constitution, article XIII A, section 2(i)(2).

¹¹ Section 69.4(b).

¹² Section 69.4(d).

¹³ Section 69.4(e)(7).

¹⁴ Section 69.4(e)(2).

- 120 percent of the fair market value of the original property immediately as if uncontaminated if a replacement property is purchased or newly constructed within the **fourth year** following the date of sale or transfer of the original property.
- 125 percent of the fair market value of the original property immediately as if uncontaminated if a replacement property is purchased or newly constructed within the **fifth year** following the date of sale or transfer of the original property.

Newly Constructed Replacement Property

If a lot is purchased and comparable structures constructed, the construction of the comparable structures must be completed within five years of the sale or transfer of the qualified contaminated property.¹⁵ The date of completion of new construction is the date upon which the property has been inspected and approved for occupancy by the local building department.¹⁶ For purposes of the value comparison test, the fair market value of the lot and structures as of the date of completion of construction is compared to the market value of the qualified contaminated property as if uncontaminated on the date of sale or transfer.¹⁷

Filing Requirements

Only the owner of a qualified contaminated property is eligible for relief under section 69.4.¹⁸ It is rebuttably presumed that an owner of real property participated or acquiesced in rendering the real property uninhabitable or unusable if that owner is related to any individual or entity that committed that act in any of the following ways:¹⁹

- The owner is a spouse, parent, child, grandson, grandchild, or sibling of that individual;
- The owner is a corporate parent, subsidiary, or affiliate of that entity;
- The owner has control of that entity; or
- The owner is owned or controlled by that entity.

If this presumption is not overcome, the owner may not receive the relief from property taxes.

In order to transfer the base year value, a claim must be filed within three years after a replacement property is acquired or new construction is completed. The law does not provide for prospective relief if the filing deadline is missed. Section 69.4(f)(3) requires that the State Board of Equalization prescribe the form for claiming the exclusion.²⁰ A claimant is not eligible for the exclusion unless the claimant provides to the assessor the following information:

- Proof that a qualified contaminated property has been designated as a toxic or environmental hazard or as an environmental clean-up site by an agency of the State of California or the federal government.
- Proof that the owner did not participate in, or acquiesce to, any act or omission that rendered the real property uninhabitable or unusable, as applicable, or is not related to any individual or entity that committed that act or omission.

¹⁵ Section 69.4(b).

¹⁶ Rule 463.500(c)(4).

¹⁷ Section 69.4(d)(4).

¹⁸ Section 69.4(e)(6).

¹⁹ California Constitution, article XIII A, section 2(i)(3).

²⁰ Form BOE-65-CP, *Claim for Transfer of Base Year Value from Qualified Contaminated To Replacement Property*.