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March 18, 1986

Mr. Max E. Goodrich, Chief
Ownership, Exemption and Mapping Division
Office of the Assessor
County of Los Angeles
500 W. Temple Street
Los Angeles, CA 90012

Dear Mr. Goodrich:

Your letter to Mr. Delaney, dated March 3, 1986, regarding the proper interpretation of the requirements of Revenue and Taxation Code section 68 has been referred to this office for response.

This question relates to a situation where local government has issued notices that residential property is unfit or unsafe for human habitation. The example described in your letter relates to a home in Big Rock Mesa, Malibu, which has had a major landslide problem. The home has been destroyed. While the homeowner has received disaster relief in the form of a reduced assessment, he cannot rebuild on the existing property and must find a replacement home at another location. The question is whether the taxpayer can transfer the base-year value of his original home to the new replacement property under the provisions of subdivision (d), section 2 of article XIII A of the California Constitution, Revenue and Taxation Code section 68 and Rule 462.5.

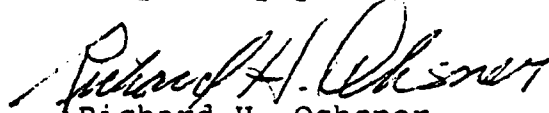
All of the cited provisions require that the person be displaced from the property by "eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation." I agree with your conclusion that the situation described above does not satisfy any of these three conditions. Accordingly, I know of no provision of current law which would permit the described homeowner to transfer his base-year value to replacement property.

March 18, 1986

Our conclusion is supported by the fact that Senator Ellis has introduced SCA 28 which would provide just this type of relief. SCA 28 would require the Legislature to provide that the base-year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the damaged or destroyed property. This measure would apply to replacement property acquired or newly constructed on or after July 1, 1985. Senator Ellis has also introduced legislation in the form of SB 2535 which would become operative in the event SCA 28 is enacted. SB 2535 provides the implementing details for the constitutional amendment. If enacted, these measures would provide the type of tax relief sought by the homeowner described in your letter. Obviously, they would not be needed if current law already provided such a benefit.

Please let me know if we can be of further assistance in this matter.

Very truly yours,


Richard H. Ochsner
Assistant Chief Counsel

RHO:fr

cc: Mr. J. J. Delaney
Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton