



(916) 323-7715

December 22, 1983

Mr. Robert L. Risberg
Tehama County Assessor
P. O. Box 769
Red Bluff, CA 96080

Attention: Mr. C. Gary Hendricks
Chief Appraiser

Dear Mr. Hendricks:

This is in response to your November 30, 1983, letter to Mr. Lawrence Augusta wherein you inquired concerning the following series of events:

"A parcel of land was placed under Williamson Act contract by the County. This property was within the sphere of influence of the City of Red Bluff. The City formally protested the land being put under contract prior to the County giving final approval. Now the City is annexing the land and will not accept this Williamson Act contract."

1. Does the City's non-acceptance of the contract make it null and void?

By "sphere of influence" we assume that you mean that the land was within one mile of the exterior boundaries of the City.

Government Code Section 51243.5 prescribes the manner in which counties must proceed when considering Williamson Act contracts which include lands adjacent to cities' boundaries and the manner in which cities must proceed to retain the option of not succeeding to the contracts upon the annexations of such lands to the cities:

107

"The clerk of the board of supervisors shall give written notice to any city within the county of its intention to consider a contract which includes land within one mile of the exterior boundaries of that city. Such notice shall be given at least 30 days prior to the time the board of supervisors intends to consider the execution of such a contract. If such city files with the local agency formation commission a resolution protesting the execution of a contract which includes land within one mile of the exterior boundaries of the city, and the commission, following a hearing, upholds the protest upon a finding that the contract is inconsistent with the publicly desirable future use and control of the land in question, then, should the board of supervisors execute such a contract, the city shall have the option provided for in subdivision (b) of Section 51243 of not succeeding to the contract upon annexation of the land to the city."

Section 51243(b) of that Code provides that every contract shall:

"...On the annexation by a city of any land under contract with a county, the city shall succeed to all rights, duties and powers of the county under such contract, unless the land being annexed was within one mile of such city at the time that the contract was initially executed, the city has filed and the local agency formation commission has approved a protest to the contract pursuant to Section 51243.5, and the city states its intent not to succeed in its resolution of intention to annex. If the city does not exercise its option to succeed, the contract becomes null and void as to the land actually being annexed on the date of annexation. In the event that only part of the land under contract was within one mile of the city the option of the city shall extend only to such part."

Thus, assuming that the land was within one mile of the exterior boundaries of the City of Red Bluff, that the City filed with the local agency formation commission an

appropriate resolution of protest, that the commission upheld the protest, and that the City stated its intent not to succeed in its resolution of intention to annex, pursuant to Section 51243(b) the contract became null and void as to the land within one mile of the exterior boundaries of the City actually being annexed as of the date of annexation.

If by "sphere of influence" you do not mean that the land was within one mile of the exterior boundaries of the City, and/or if the City did not file an appropriate resolution of protest, or if the local agency formation commission did not uphold the protest, or if the City did not state its intent not to succeed in its resolution of intention to annex, it would appear that the City succeeded to all rights, duties and powers of the County under the contract. In that event, the City would have to move to disestablish the preserve under the contract. See Government Code Sections 51231, 51232, 51234, 51235, and 51236 in that regard.

2. If the contract or portion thereof is null and void, do cancellation fees apply?

Government Code Sections 51280-51286 pertain to cancellation of Williamson Act contracts. Thus, Section 51280 provides that the purpose of the cancellation sections is to provide relief from the provisions of contracts entered into under circumstances and conditions referred to, and Section 51281 provides that a contract may not be canceled except pursuant to a request by the landowner. Section 51283 then provides for the determination of cancellation fees.

Since the successor/option not to proceed provisions of Sections 51243 and 51243.5 are unrelated to the cancellation provisions, cancellation fees would not be applicable. Neither would they be applicable were the City to disestablish the preserve, such being equivalent to notice of nonrenewal by the City. Nonrenewal/termination provisions also are unrelated to the cancellation provisions.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

cc: Mr. Lawrence A. Augusta
bc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton

Mr. William McKay
Legal Section