



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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April 21, 1989

Dear Mr. .

Your letter dated March 28, 1989, to Richard Ochsner, Assistant Chief Counsel, has been referred to the undersigned for reply. The facts set forth in your letter, and as related to me via telephone, can be summarized as follows:

Facts

1. You are the chairman of the Board of Governors of : Gardens, an unincorporated association representing the co-owners of the apartment complex bearing the same name.
2. Such apartment complex consists of 24 units in . The property is a "community apartment project" as defined in Business and Professions Code section 11004. As such, ownership and title is held by the co-owners as tenants in common, in undivided, fractional interests.
3. Each such co-owner also possesses (i) the exclusive right to occupy a specifically identified apartment unit, as well as (ii) accompanying nonexclusive ingress and egress rights.
4. None of the apartment units are subject to a lease.
5. In 1984, pursuant to the co-owners' written request, the County Assessor's Office commenced the separate assessment of said Gardens community apartment project.
6. The co-owners now intend to implement a condominium conversion of the project. Such conversion will consist of the following proposed steps:
 - a. Recordation of a subdivision map dividing the project into condominium units and common areas.

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- b. Recordation of deeds from the co-owners granting each respective present resident ownership of the condominium unit representing the apartment of which he has exclusive occupancy.
- c. Recordation of an additional deed transferring title to the common areas from the co-owners to a condominium owners' association.

You have requested an opinion of the change in ownership consequences of the above-described proposed transactions.

LAW AND ANALYSIS

Section 60 of the Revenue and Taxation Code (all section references contained herein are to the Revenue and Taxation Code unless otherwise specified) states that:

A "change in ownership" means a transfer of a present interest in real property, including beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

Your proposed transactions will unquestionably involve a transfer of real property within the meaning of section 60. Section 62, however, provides the following exception to such provision:

Change in ownership shall not include:

* * *

(a)(2) Any transfer . . . which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. . . .

Rule 462(j)(2)(B) of the Property Tax Rules set forth in Title 18 of the Code of Regulations defines such transfers excluded under section 62(a)(2) as follows:

Transfers of real property between separate legal entities or by an individual(s) to a legal entity (or vice versa), which result

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solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer.

The filing of a subdivision map converting an apartment complex into condominium units does not, in and of itself, constitute a change in ownership of the subject property. The subsequent disposition of the units determines whether or not such a change occurs and to what extent.

In this case, the property is a community apartment project where each resident owns an undivided interest in the property and possesses the exclusive right to occupy his particular unit. After recordation of the map, you propose to transfer each newly-created condominium unit to the co-owner who has exclusive occupancy of such respective unit.

This office has previously held in opinion letters dated February 7, 1980, and February 14, 1980, that, under such circumstances, the transfer of the newly-created condominium units to the former owner/residents will constitute only a change in such owners' method of holding title to the subject property. Copies of such opinion letters are attached. Therefore, so long as all co-owners acquire their respective units, thereby maintaining their proportional ownership interests in the property, the proposed transfers should be exempt from change in ownership consequences pursuant to the exception set forth in the above-referenced section 62(a)(2).

The views expressed in this letter are, of course, only advisory in nature. They are not binding upon the assessor of any county. You may wish to consult the Los Angeles County Assessor in order to confirm that the described transactions will be treated in a manner consistent with the conclusions stated above.

Yours very truly,



Robert W. Lambert
Tax Counsel

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Attachments

cc: Honorable John J. Lynch
Los Angeles County Assessor
Mr. John Hagerty
Mr. Robert Gustafson
Mr. Verne Walton

July 30, 1985

[a]ny transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer.

Under the facts outlined above, the transfer of the individual units from the cooperative housing corporation to a condominium would be a change in the method of holding title to the property only. The proportional ownership interests of the owners of the units would remain the same both before and after transfer. Therefore, there would be no change in ownership of the units and no consequent reappraisal; the opinion provided by Mr. Rigby in 1981 remains valid.

The view expressed in this letter that the implementation of the proposed conversion plan is not a change in ownership of the cooperative units is an advisory opinion only. It is not binding upon the assessor of any county. You may wish to consult with the Assessor of S. County to order to ascertain if this transaction would be treated in a manner consistent with the conclusions stated above.

Very truly yours,

Barbara G. Elbrecht

Barbara G. Elbrecht
Tax Counsel

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