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August 30, 1990

This is in response to your August 20 letter requesting information on the regulatory definition of the term "limited income" as used in subdivision (i) of Revenue and Taxation Code Section 62.

As you know, subdivision (i) was added to Revenue and Taxation Code Section 62 by Chapter 1161 of the Statutes of 1979 (AB 1019, Hannigan). The language of subdivision (i) was added by a late amendment in the Senate on September 13, 1979. This was the same date that the bill passed the Senate. A review of our legislative file on AB 1019 failed to produce any information on the source of the amendment or its purpose. The letter from the State Board of Equalization to Governor Jr., recommending adoption of AB 1019, states in pertinent part that "...the bill rewrites the provisions concerning housing cooperatives to provide that there will be a reappraisal of the individual unit when it is sold, except in the case where the co-op was federally funded and the transfer is to a person or family qualifying for the purchase by reason of limited income."

Pursuant to its-rule making authority, the State Board of Equalization has adopted Property Tax Rule 462 (18 California Code of Regulations Section 462) which sets forth various interpretations of the law applicable to the change in ownership provisions of the Revenue and Taxation Code. The provisions of the rule applicable to housing cooperatives are found in subdivision (j)(4)(C) which provides that a change in ownership occurs:

"(C) When the stock transferred in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(i) the cooperative was financed under one mortgage which was insured under Sections 213, 221(d)(3), 221(d)(4) or 236 of the National Housing Act, as amended, or was financed or assisted pursuant to Sections 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and

(ii) the regulatory and occupancy agreements were approved by the respective insuring or lending agency, and

(iii) the transfer is from the housing cooperative to a person or family qualifying for purchase by reason of limited income."

Although the term "limited income" is used in the above quoted portion of Rule 462, there is no further explanation or definition of that term. According to Mr. Richard H. Ochsner, Assistant Chief Counsel - Property Taxes, the Board's legal staff is not aware of any other regulation or other administrative interpretation which provides such an explanation or definition.

The above quoted portion of Rule 462 sets forth the legal staff's understanding of the change in ownership provisions applicable to cooperative housing. That is, the transfer of stock in a cooperative housing corporation which conveys the exclusive right to occupancy of all or a portion of the property generally constitutes a change in ownership unless (1) the cooperative was financed under one of the various government programs listed in the rule, (2) the regulatory and occupancy agreements were approved by the respective insuring or lending agency, and (3) the transfer is from the housing cooperative to a person or family who qualify for the right to purchase the cooperative interest by reason of that person's or family's limited income. Presumably, the various governmental programs listed limit their benefits to persons or families that meet certain income limits. Those limits may vary from program to program. Further, Congress may change those limits from time to time. Thus, there is not necessarily any single set of limits applicable to all situations. As we understand the regulation and the statute, the requirement is simply that in order to qualify for the exclusion from the change in ownership provision, the person or family must qualify for the

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right to purchase the cooperative interest by virtue of meeting some income limitation, whatever that may be, which is required by the applicable government loan assistance program.

I hope that the foregoing information will assist you in responding to your constituents' concerns. If you have further questions, I recommend that you contact Mr. Ochsner directly. His telephone number is (916) 445-4588.

Very truly yours,

Margaret Shedd Boatwright
Legislative Counsel

MSB:sp
2638D

cc: Honorable Conway Collis
Ms. Cindy Rambo
Mr. E. L. Sorensen, Jr.
Mr. John Hagerty
Mr. Richard H. Ochsner
Mr. Verne Walton
Mr. Stephen Rudd

Prepared by RWO