



STATE OF CALIFORNIA

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October 1, 2001

Honorable Robert C. Petersen
Santa Cruz County Assessor
701 Ocean Street
Santa Cruz, CA 95060

Re: *Change in Ownership/Limited Equity Coop under Section 62(i)*

Dear Mr. Petersen:

This is in response to your letter of August 1, 2001, to Dan Nauman of the Board's Legal Division, questioning the eligibility of a mobilehome park transfer for exclusion from reappraisal under section 62(i) as a limited equity cooperative. Because the financing for the coops appear (from the documents you sent us) to be locally sourced, the exclusion in subdivision (i) would not be available for these transfers.

Facts

Two mobile home parks in Santa Cruz County which are organized as limited equity housing cooperatives seek to exclude their membership share transfers from change in ownership and reassessment, under section 62, subdivision (i).¹

- One of the parks was purchased with a \$1,000,000 loan from the California Housing and Community Development (HCD) Mobile Home Park Resident Ownership Program, a commercial loan for the same amount, and with the proceeds of the sale of 93 membership shares to park residents for \$1500 per share. According to Lorraine French, the program manager for the HCD Mobile Home Park Program, the funds for that program are all state funds and do not come from the California Housing Finance Agency. The public financing apparently qualified the coop for exemption from certain provisions of the Subdivided Lands Act under Business and Professions Code section 11003.4, subdivision (b).

¹ When previously asked to consider whether the transfer of membership interests in these cooperatives was excluded from change in ownership under subdivision (a) of section 62.1, we concluded that a limited equity cooperative was a "housing cooperative corporation" as that phrase is used in section 61, subdivision (i), and that the pro rata changes in ownership of section 62.1, subdivision (c)(1), were specifically applicable. (See Nauman opinion dated 7/30/01.)

- The other coop park was apparently financed, as best we can determine from the documentation in the file, by a grant from a local redevelopment agency, using Redevelopment Low and Moderate Income Housing Funds, tax increment financing allocated pursuant to California Health and Safety Code section 33334.2.

There is no information in the file indicating that any federal housing funds were used to purchase either of the co-op parks or that they are insured under any federal program.

Law and Analysis

Section 62, subdivision (i) excludes from “change in ownership”

Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, *provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency*, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership. (Emphasis added.)

The fact that either cooperative qualified for exemption from certain requirements of the Subdivided Lands Act due to its compliance with Business and Professions Code section 11003.4 is not relevant to the question before us, because, the type of public financing qualifying an entity for the coop exclusion in subdivision (i) of Section 62 is entirely distinct from the public financing qualifying for the Subdivided Lands Act exemption. To take advantage of the section 62, subdivision (i) exclusion, a housing coop must show the assessor three things:

- that the coop mortgage was insured under, or the coop was purchased, financed or assisted by funds from the applicable National Housing Act or financed by a direct loan from the California Housing Finance Agency,
- that the applicable government lender or insurer had approved regulatory and occupancy agreements and
- that the transfer is to the member household qualified for purchase by reason of limited income.

If federal funding was not used to insure the co-op mortgage, or to purchase, finance or assist the co-op and there was no loan from the California Housing Finance Agency, the transfer of stock or membership certificates are not eligible for exclusion from reassessment under section 62, subdivision (i). It is not necessary to perform any further analysis since the evidentiary standard for the exclusion has not been met. That would appear to be the situation

for both co-ops under consideration. From the documentation submitted, it appears that all public financing for both co-ops was from state and local redevelopment funds.

The views expressed in this letter are advisory only. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein and are not binding on any person or agency.

Feel free to call me at (916) 327-2455 if you have any additional questions on this matter.

Sincerely,

/s/ Susan Scott

Susan Scott
Tax Counsel

SAS:lg

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Cc: Mr. Richard Johnson, MIC:63
Mr. David Gau, MIC:64
Ms. Jennifer Willis, MIC:70