



220.0371

(916) 323-7712

December 9, 1983

Dear M :

This is in response to our telephone conversation and the documents sent me by Mr. W , Deputy County Counsel of Humboldt County in the case of Dixon v. Wright. In that case, Judge J. Michael Brown adjudged and decreed that (1) the deed executed on August 1, 1977, which conveyed real property from C to T W and M W be cancelled and set aside, and (2) the title to the property be vested in S , Conservator of the Person and Estate of C . The Judgment was signed, filed and recorded in August 1983. In his Memorandum of Tentative Decision, Judge Brown found that the conveyance by C to the W's was the result of undue influence.

As a general rule, deeds that are voidable pass title, subject to being set aside in appropriate proceedings for reasons which include undue influence (Cox v. Schnerr (1916) 172 Cal. 371; see generally Civil Code, sections 1566-1579, 1689). Accordingly, it is our opinion that a change in ownership occurred when the grant deed was executed by C conveying the property to the W's in 1977. In the interim period from August 1977 to August 1983, the date the deed was cancelled, the deed was in effect and no refund of taxes should be made. It is our opinion, however, that upon the cancellation of the deed and conveyance of title to C 's conservator there was no change in ownership and that the property reverts back to its previous base year value and should be enrolled at such value (plus the appropriate inflation adjustment) as of the date of judgment for cancellation.

M

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December 9, 1983

I trust the foregoing is responsive to your inquiry. If we may be of further assistance to you in this matter, please do not hesitate to contact this office.

Very truly yours,

Margaret S. Shedd  
Tax Counsel

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