

(916) 323-7712

May 13, 1981

Honorable Raymond J. Flynn
Humboldt County Assessor
825 Fifth Street
Eureka, CA 95501

Attention: Ms. Carolyn Crnich
Cadastral Drafting Supervisor

Dear Ms. Crnich:

This is in response to your letter of January 8, 1981, to Mr. Gene Palmer regarding the conveyances of the Crooked Prairie Association. Please excuse our delay in responding to this problem.

According to the materials you sent, on February 24, 1971, Mr. Larry Jameson deeded approximately 240 acres of property in Humboldt County to the Crooked Prairie Association, an unincorporated association. In May 1978, the association by five separate deeds (numbered 12817, 12818, 12819, 12820 and 12827) conveyed the property to numerous individuals, some of which were listed members of the association as of March 5, 1978, and some of which were not. Further, some of the listed members were not transferees of any property conveyed by the Association. Specifically, you ask what is the effect of the May 1979 conveyances from the Association with respect to the change in ownership provisions of Article XIII A and its implementing legislation.

Sections 60 through 67 of the Revenue and Taxation Code, relating to change in ownership, do not specifically address the issue of transfers by unincorporated associations. Section 61(i) and 62(a) do, however, relate to transfers by legal entities. The California courts have recently recognized that unincorporated associations are now entitled to general recognition as separate legal entities. (White v. Cox, (1971) 17 Cal. App. 3d 824, 828.) California statutory law provides that any unincorporated society or association may, without incorporation, purchase, receive, own, hold, lease, mortgage, pledge, encumber, by deed of Trust or otherwise, manage, and sell all such real estate and other property (Corporations Code, Section 20001). Furthermore, the interest of any member of an incorporated association is personal property, rather than real property (Corporations Code, Section 20000). Members of a nonprofit

association are not individually or personally liable for debts or liabilities contracted or incurred by the association in the acquisition of lands or leases or the purchase, leasing, designing, planning, architectural supervision, erection, construction, repair, or furnishing of buildings or other structures, to be used for purposes of the association (Corporations Code, Section 21100). In addition, for purposes of the bank and corporation tax, Revenue and Taxation Code, Section 23038 defines "corporation" as including associations (including nonprofit associations that perform services, borrow money or own property).

Based on the forgoing, it is our opinion that unincorporated associations should be treated as legal entities for property tax change in ownership purposes. This being the case, we believe that there are five changes in ownership of real property as evidence by the deeds numbered 12817, 12818, 12819, 12820 and 12827 and reappraisal of such property is appropriate under Revenue and Taxation Code , Section 61(i): "The transfer of any interest in real property between corporation, partnership, or other legal entity and a shareholder, partner, or any other person." Based on the information provided, we do not believe that the exclusion provided for in section 62(a) is applicable for two reasons: (1) The proportional interests of the transferee members in the entire 240 acre parcel is not the same as before the transfer; that is, after the transfers each member does not have a pro rata undivided interest in the whole parcel and (2) some non-members are included as transferees and some members are not included as transferees.

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

MSS: fr

cc: Mr. Gene Palmer

bc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton