290.0007 **Duty To Assess To Claimed Owner**. Notwithstanding that Revenue and Taxation Code section 405 requires that property be assessed to the persons owning, claiming, possessing, or controlling it on the lien date, the assessor's refusal to separately parcelize and assess a portion of a larger parcel claimed to have been sold does not invalidate the assessment of the property as a single parcel. Revenue and Taxation Code section 613 provides that a mistake in the name of the owner or supposed owner does not invalidate an assessment made against real property. Further, the assessor's refusal may be appropriate when the purported sale would be contrary to provisions of the Williamson Act, would appear to violate the Subdivision Map Act, and is the subject of litigation. C 5/7/90.

Assessee

(916) 445-4982

May 7, 1990

This is in response to your letter dated March 6, 1990 in which you complained of the Madera County Assessor's decision not to create a new tax parcel for three former paper lots which you ostensibly sold last year. The result of the assessor's course in this matter is that you remain as the assessee for the property. You have provided copies of several letters from you to the assessor's office about this matter, as well as copies of the deeds showing a transfer of title to the lots. You have also provided a copy of the Williamson Act contract executed by the prior owner of your land in 1971, and a copy of an assessor's parcel map showing the lots as a separate parcel. You feel that the assessor's office is obligated under the law to assess the lots to the grantees named in the deeds.

On your behalf, Board staff contacted the county assessor's office to develop a better understanding of the issues involved in this matter. They informed us that the lots which you have purportedly sold existed as a separate parcel only prior to the time that you purchased the property, and that the former owner requested a combination of this former parcel with surrounding property, including other former parcels, before your purchase. Thus, the copy of the assessor's parcel map provided by you is not the current map used by the assessor for tax purposes. As you may know, the current assessor's map shows these lots as part of a much larger parcel.

Our understanding is that the assessor has elected not to create a separate tax parcel for two reasons. First, the purported sale of the lots would appear to constitute a division of property into parcels smaller than are allowed under Williamson Act contracts. Second, the county planning department has evidently taken the position that the sale constitutes a division of land in violation of the Subdivision Map Act. We understand further that a Notice of Violation has been recorded by the planning department, and that you have subsequently taken legal action against the planning department.

You have cited Revenue and Taxation Code Section 405, which provides in part that the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date. The section provides further that

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property on the secured roll may be assessed to the person owning, claiming, possessing, or controlling it on the lien date.

Notwithstanding Section 405, we have no quarrel with the assessor's decision not to create a separate tax parcel for these lots. Under Section 613, a mistake in the name of the owner or supposed owner of real estate does not render an assessment invalid. Thus, the assessment is against the property and not the owner, and the name of the owner is given merely for the sake of convenience. (See Ehrman and Flavin, Taxing California Property, 3rd Edition, Section 8.01.).

I hope this has been responsive to your inquiry.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:sk

cc: Honorable Richard E. Gordon
Madera County Assessor

bc: Mr. Richard Ochsner

(Prepared by: Mark Nisson)