



(916) 323-7714

October 11, 1984

Dear

Disclosure of Confidential Information
at an Equalization Hearing

Your letter of September 23, 1984 requests our opinion concerning the admissibility of evidence that states the scheduled gross rent of an apartment complex which was used by the assessor as a comparable to the subject property under equalization. It is your view that Chanslor-Western Oil and Development Co. v. Cook, 101 Cal. App. 3d 407 (1980), is directly on point. Since you represent the comparable and have requested that the rent not be made public, it is your view that the assessor may not disclose that figure during the equalization proceeding. We agree with some reservations.

In Chanslor the appellate court was presented with nine, very specific financial indices that control the valuation of oil producing property. That data is substantially more unique than the average gross rent of a typical apartment complex. Justice Kaus points that out in his concurrence at 417 where he states that "...I believe, the information involved is a trade secret." Arguably the county counsel may therefore challenge your position by distinguishing the specific facts involved.

Secondly, we have made a brief check with some local experts who point out that the sale and purchase of apartment complexes usually proceeds on the consideration of gross rent multipliers for the particular type involved. The multiplier is derived from the scheduled gross rent which becomes the primary element in the transaction. In fact, it was mentioned that this information is common knowledge in the business community dealing with apartments and moreover, it is considered by them to constitute "market data" for purposes of valuation.

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Nevertheless, it is clear from Revenue and Taxation Code Section 408 that the Legislature took a much more restrictive view of "market data". It is also clear that the Chanslor court was unwilling to expand Section 408 beyond those items that are explicitly listed. The rationale of the court was directly based on Section 408(d) and the phrase "...but for purposes of providing such market data, the assessor shall not display any document relating to the business affairs or property of another."

We are troubled by the conflict wherein the assessor is permitted to collect and utilize such rental information, but then is prohibited from disclosing such in defense of his appraisal when challenged at equalization. The logical result is that the assessor will rely on less useful information and the accuracy of his appraisals will generally suffer. However, pending any legislative changes, we think Chanslor prohibits specific disclosure on your facts. Our only alternative advice is that the assessor must derive market-wide standards that do not relate to individual properties.

Very truly yours,

James M. Williams
Tax Counsel

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cc:

bc: Mr. Gordon P. Adelman
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Mr. Verne Walton
Legal Section