



Memorandum

To : Mr. Charlie Knudsen, MIC:64

Date: April 13, 1995

From : Eric Eisenlauer *Eric Eisenlauer*

Subject: Letter From Ventura County Assessor's Office
re Disaster Reconstruction

This is in response to your memorandum of April 4, 1995, to Mr. Richard H. Ochsner requesting our opinion with respect to Jim Dodd's letter of March 6, 1995 to Arnold Fong which was attached. Mr. Dodd presents the following facts:

1. Property is a residence with a 1989-90 base year value of \$300,000: land, \$150,000; improvement, \$150,000.
2. On January 16, 1994, the day before the earthquake, the property is assessed under Proposition 8 at \$240,000: land, \$120,000; improvement, \$120,000.
3. Property is damaged on January 17, 1994.
4. The reconstruction is completed on January 1, 1995.
5. The full cash value of the reconstructed improvement is \$110,000.

By telephone, Mr. Dodd informed me that Ventura County has adopted an ordinance pursuant to Revenue and Taxation Code section 170.

We also assume that the property after reconstruction is "substantially equivalent" to the property prior to the damage so that pursuant to section 70, subdivision (c), the reconstruction does not constitute new construction.

¹All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

Mr. Dodd asks:

1. Is \$110,000 the new base year value of the reconstructed improvement?
2. Which land value is enrolled with the improvement value, the market value of \$120,000 or the factored base year value of \$150,000?

Section 170, subdivision (h) as amended by Statutes of 1994, Chapter 1222, section 11 provides in part:

(2) On the lien date following completion of the repair, restoration, or reconstruction, the assessor shall enroll the new taxable value of the property as of that lien date.

(3) For purposes of this subdivision, "new taxable value" shall mean the lesser of the property's (A) full cash value, or (B) factored base year value or its factored base year value as adjusted pursuant to subdivision (c) of Section 70.

The substance of these paragraphs was formerly contained in the third paragraph of subdivision (g) of section 170 and was added by Statutes of 1981, Chapter 377, in effect January 1, 1982. Applying the provisions of these paragraphs, the full cash value of the property as restored is \$230,000 of which \$110,000 is for improvements and \$120,000 is for land. Since the reconstruction of the improvements does not constitute new construction pursuant to section 70, subdivision (c), the base year value of the improvements is still \$150,000 and the base year value of the total property is \$300,000. Since the full cash value of \$230,000 is less than the base year value of \$300,000 factored for inflation, \$230,000 is the new taxable value to be enrolled for the March 1, 1995 lien date.

Note that the separate appraisal unit rule for damaged property caused by disaster found in Property Tax Rule 461, subdivision (d) applies only until the property is restored following the damage as of which time Property Tax Rule 461, subdivision (e) applies.

Property Tax Rule 461, subdivision (e)(1) provides, however, that if the full value of the restored property is less than the indexed base year full value such lower value shall be enrolled "as the new base year value." The quoted portion was added by an amendment effective March 1, 1979. At that time,

however, Section 70, subdivision (c), which excluded from the meaning of new "construction" and "newly constructed" reconstruction of property damaged by misfortune or calamity under a "substantially equivalent" test, had not been enacted. That enactment became effective July 10, 1979. (Stats. 1979, Ch. 242.)

Also, the "new taxable value" concept of section 170 was added effective January 1, 1982 as noted above.

Since the "as the new base year value" language of Property Tax Rule 461, subdivision (e) which was added effective March 1, 1979 is inconsistent with section 70, subdivision (c) and with the "new taxable value" language of section 170, both of which were enacted subsequently, such language of the rule should be disregarded. The rule should be amended to conform to the subsequent legislative enactments.

EFE:jd
precednt/disaster/95001.efe

cc: Mr. Dick Johnson, MIC:64
Mr. John Hagerty, MIC:62
Ms. Jennifer Willis, MIC:70