(916) 323-7715

June 29, 1984

Mr. Bradley L. Jacobs
Orange County Assessor
630 North Broadway
P. O. Box 149
Santa Ana, CA 92702

Attention: Mr. James R. Harmon, Appraiser III
Quality Assurance

Dear Mr. Harmon:

This is in response to your June 7, 1984, letter to Mr. James Delaney wherein you enclosed copies of various items of correspondence pertaining to the 1982-83 assessment of an aircraft owned by the Maurer Development Company and its decrease in value as the result of a crash landing on March 12, 1982, as well as several opinions from the Orange County Counsel's Office to your Office pertaining to reassessment in cases of property damage due to misfortune or calamity, and you asked for our interpretation of subdivision (d) of Revenue and Taxation Code Section 170, Reassessment Of Property Damaged By Misfortune Or Calamity:

> "If no such application is made and the assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor but in no case more than six months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b)."

Per your letter in part:

> "In the past we have been operating under local interpretation that where a potential calamity applicant has failed to apply for relief within 60 days of the misfortune, the assessor could not mail out an application (giving rise to an independent 30-day filing deadline) unless he had acquired 'independent knowledge' of the misfortune. This has been interpreted local to mean knowledge independent of the potential applicant, and, of course, there is a 6-month absolute deadline for filing under any circumstances."

Section 170 (d) is a restatement of the former fourth paragraph of former Revenue and Taxation Code Section 155.13, as amended:

> "If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the assessor shall proceed to reassess property in the same manner as required above."

As a result of ACA 30/Stats. 1973, Res. Ch. 158, Proposition 4 on the June 4, 1974, Primary Ballot amended former Article XIII, Section 2.8 of the California Constitution to allow the Legislature to authorize local governments to reassess property damaged or destroyed as a result of misfortune or calamity, whether or not "major" and whether or not located in an area declared by the Governor to be in a state of disaster. In conjunction therewith, AB 625/Stats. 1973, Ch. 901 provided for the addition of Revenue and Taxation Code Section 155.13 pertaining to the reassessment of property damaged by misfortune or calamity, and included the former fourth paragraph thereof whereby assessors were independently to reassess such property in instances in which persons had not

filed applications for reassessment. AB 3522/Stats. 1976, Ch. 1201 substituted the above language (former Section 155.13, as amended) for the requirement that assessors independently reassess such property. As the result, where no application for reassessment was made, the assessor, on determining that property had suffered damage caused by misfortune or calamity was to provide an application to the last known owner, who could then file the completed application. Attached for your information is a copy of our remaining AB 3522 file, including the bill as introduced March 15, 1976, our analysis and the Senate Revenue and Taxation Committee Staff's analysis of the bill introduced, and the bill as amended in the Senate August 10, 1976.

Thereafter, former Section 155.13 was amended further by SB 1888/Stats. 1976, Ch. 1388 to permit an ordinance to be applicable to property damaged or destroyed after enactment of the ordinance and to permit a county to enact an ordinance granting relief with respect property damaged or destroyed during the 1974-75 assessment year. Section 4 thereof provided in this latter regard as follows:

> "This act is an urgency statute…and shall go into immediate effect. The facts constituting such necessity are:
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> "In November 1974, the people of the state amended the Constitution to permit the reassessment for property taxation of property damaged or destroyed after the lien date to which the assessment related. The law required that a city or county adopt an ordinance to enable eligible persons to apply for relief; and due to the newness of the provision and brief period for the adoption of such an ordinance, some counties did not adopt an ordinance for the 1974-75 assessment year, and some persons, otherwise eligible, were unable to apply for relief. This act will remedy the situation, and in so doing the intent of Section 15 of Article 13 of the Constitution will be fulfilled, the public policy of the state will be subserved, and the state as a whole will benefit."

At the same time, the 1976 amendment of Section 155.13 as the result of AB 3522/Stats. 1976, Ch. 1201 was amended into SB 1888 and retained in Stats. 1976, Ch. 1388. Attached also is a copy of the Senate Revenue and Taxation Committee Staff's analysis of the bill as introduced.

Taking these 1976 amendments to former Section 155.13 together, it appears that the intent of the Legislature was to make reassessment of property damaged by misfortune or calamity available to as many eligible persons as possible, in part, by having assessors notify owners concerning the filing of applications for reassessment, whenever all the requirements therefor were met. Consistent therewith was the use in the former fourth paragraph of the phraseology "and the assessor determines" without any limitation thereupon as to how he or she would do so, such as "and the assessor determines independently", "and the assessor, upon his own initiative, determines", etc. Such a determination then could, of course, be made in any number of ways, including having the fact that property was damaged by misfortune or calamity brought to the assessor's attention by the owner of such property.

As evidenced, above, Section 170 (d) is a restatement of and, in pertinent part, identical to the former fourth paragraph of Section 155.13, and it seems to us that the same broad interpretation of the latter should apply to the former, particularly in view of the fact that in enacting Section 170 (d), the language of the former fourth paragraph of Section 155.13 was used, again, without any limitation upon the phraseology "and the assessor determines".

Accordingly, we are in agreement with the conclusion set forth on page 4 of Deputy County Counsel Richard Oviedo's May 2, 1984, Memorandum to Assistant County Counsel Watson that there is not limitation within subsection (d) of how the Assessor determines a property has suffered damage caused by misfortune or calamity and with the conclusion set forth on page 5 thereof that there is no legal basis for not mailing applications for reassessment of calamity victims where knowledge of the calamities was obtained from such persons.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

cc: Mr. J. J. Delaney
bc: Messrs. Adelman, Gustafson, Walton, Legal Section