



(916) 445-4588

March 29, 1983

Honorable Frank C. Saeley  
Riverside County Assessor  
P. O. Box 907  
Riverside, CA 92502

Dear Frank:

You have asked our opinion as to whether an appraisal made pursuant to Section 3698.5 for purposes of determining the minimum price at a tax sale is conclusively presumed to be the value for property tax purposes when a later appraisal shows the value to be different on the date of sale.

It is our opinion that a Section 3698.5 appraisal is not conclusive for property tax purposes; rather, the fair market value on the date of sale is the proper value to be used for property tax purposes.

Section 2(a) of Article XIII A of the California Constitution provides in relevant part that "...full cash value means...the appraised value of real property when purchased...." In implementing Article XIII A, the Legislature provided in Revenue and Taxation Code Section 110.1(a)(2)(A) that "For purposes of subdivision (a) of Section 2 of Article XIII A ...'full cash value' of real property...means the fair market value as determined pursuant to Section 110 for...(A) The date on which a purchase...occurs..." Section 110 provides the basic definition of fair market value as the amount a willing buyer would pay to a willing seller on the open market when neither buyer nor seller could take advantage of the other and both have knowledge of the uses of the property and its enforceable restrictions.

The basic law on the valuation of property for property tax purposes is established by these provisions of Article XIII A and Sections 110 and 110.1. A Section 3698.5 appraisal, which is not made when the property is purchased, and may be made as long as a year before, cannot supersede the Constitutional provision.

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Even if the Constitutional question were not determinative of this issue, the provisions of Section 3698.5 are not applicable to property tax valuation. Section 3698.5 was added by Chapter 615 of the Statutes of 1979. The purpose of that measure was to provide for a minimum sales price for property sold at tax sales to prevent tax debtors from losing their entire equity in the property, including that equity in excess of the tax debt, due to inadequate sales prices. Section 3698.5 sets forth the procedure for establishing that minimum price. The conclusive presumption of that section is intended to protect bona fide purchases for value at a tax sale from any contests by third party claimants as to the adequacy of the minimum price. The section applies for that limited purpose. It has no applicability to valuation for establishing subsequent property taxes.

Very truly yours,

Lawrence A. Augusta  
Assistant Chief Counsel

LAA:jlh

bc: Mr. Gordon P. Adelman  
Mr. Robert H. Gustafson  
Legal Section