



STATE OF CALIFORNIA

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Executive Director

February 28, 1995

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Attn: [illegible]

Re: [illegible]

Dear [illegible]

This opinion is in response to your letter of September 21, 1994 wherein you presented a situation in which a portion of property subject to Williamson Act restrictions was dedicated and accepted as public right of way pursuant to recording as specified in California Government Code, Section 27281. It is your belief that the roads in question are fully taxable to the land owners, because by recorded agreement they will continue all road maintenance until the county accepts the obligation, and because pursuant to our advice in Letter to Assessors No. 84/51, continuation of private maintenance indicates an incomplete dedication.

To the contrary reliance on LTA No. 84/51 is not appropriate in this instance. There, we were explaining the usual dedication procedure under the Subdivision Map Act which starts with the acceptance of the preliminary map and beginning of right of way construction. Upon completion of construction the final map is filed and it is accompanied by governmental acceptance of the dedication. The LTA specifies that all of the property is taxable during this period but that the portion attributable to the dedicated roadway should be removed from the roll as tax exempt upon final acceptance.

Here, however, the taxpayer did not proceed under the Subdivision Map Act. Government Code, Section 27281 provides the statewide general method for acceptance of any public dedication and it becomes effective upon the one-time recording of acceptance. The Certificate of Acceptance dated September 14, 1993 and signed by the chairman of the board of supervisors meets all requirements of the code and confirms the

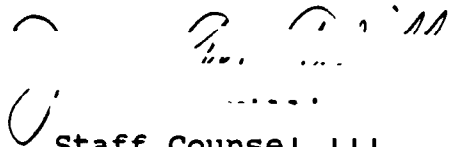
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public dedication. We would therefore conclude that on the foregoing date the property described in paragraph 2 of the IRREVOCABLE AND PERPETUAL OFFER TO DEDICATE of August 23, 1993 was publicly dedicated and exempt from property tax. The fact that the private owners have agreed to continue all road maintenance is of no consequence once the requirements of Section 27281 have been met. Separate agreements for private maintenance on public roadways are not uncommon throughout this state.

In regard to the onset of taxation LTA No. 84/51 should control and the rule regarding new construction is applicable at the commencement of construction of the roadway. Your letter does not go into these facts but if there has been no taxation during the course of construction an escape assessments may be applicable. Finally we do not find any alteration to our analysis because at all times the property in question was subject to Williamson Act renewal. Roadway construction of this type is not subject to restricted valuation and assessment. As a state agency, however, we are concerned that the portion of the acreage now dedicated to public roadway be deleted from Williamson coverage and that the subvention attributable thereto be appropriately canceled.

Please excuse the delay in response; the workload at year's end was quite heavy. I am now researching your request of October 31, 1994 and should have a response shortly.

Very truly yours,



Staff Counsel 111

JMW:jd  
precednt/govnprop/95001.jmw

CC: [redacted]  
R. [redacted]  
M: [redacted]