

Ms. Margaret S. Shedd.

June 7, 1984

Robert R. Keeling

SB 2260 (Marks)

This is in response to your memo dated June 5, 1984, to Richard Ochsner regarding SB 2260.

Conservation easements are currently considered to be enforceable restrictions under Revenue and Taxation Code Sections 402.1 and 422.

Section 402.1 stands for the proposition that any restriction placed upon the land by government through zoning, contract, or agreement is a restriction which the assessor must recognize as limiting or affecting the value of the land. Since conservation easements are created through government action, then the assessors must consider the restrictive effect upon value by the easement and must heed the instructions on 402.1.

Conservation easements fit within the bounds of Section 422. Such easements can easily be depicted as a contract, an agreement, an open-space easement, or a wild life habitat contract. As such, Section 422 depicts such easements as being "enforceably restricted" and, therefore, they would be subject to the provisions of 402.1. However, in order to fall within the bounds of Section 422, such easements must also be created within the bounds of open-space lands and the other definitions depicted in Revenue and Taxation Code Section 421. When so created, Sections 421, et seq. specifically spell out the assessment limitations upon the assessor for the assessment of such lands.

RRK:fr