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September 19, 1988

Dear Mr. Redacted:

In furthermore of our telephone conversation, the following is a brief synopsis of statutes pertaining to historical property.

In 1976, Proposition 7 of the June 8, 1976, Ballot was enacted by the electorate to state in article XIII, section 8 of the California Constitution:

“To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.”

According to the Legislative Analyst, the proposition authorized the Legislature to define property of historical significance, to specify the manner in which historical property must be restricted in order to be eligible for the reduction in appraised value, and to require assessors to appraise historical property according to its restricted use rather than its fair market value. Thereafter in 1977, section 439-439.4 of the Revenue and Taxation Code, Historical Property, were added. In place at the time were sections 50280-50290 of the Government Code, Historical Property Contracts.

In effect, the Legislature has established special valuation rules for qualified historical property, nonexempt privately-owned property that is either (a) listed in the National Register of Historic Places or located in a registered historic district, as defined, or (b) listed in any state, county or city official register of historical or architecturally significant sites, places, or landmarks (Gov. Code, § 50280.1). The owner must enter into a contract with the city or county (Gov. Code, §§ 50280, 50281 and 50282). And the city or county may require the owner to pay a fee (Gov. Code, § 50281.1).

As to the contracts themselves, they must have a minimum term of ten years and must provide for the preservation, and when necessary, restoration of the property (Gov. Code, § 50281). Also, they must provide for automatic renewal on the anniversary date or some other annual date, as specified, unless either the owner or the legislative body gives notice of nonrenewal (Gov. Code, § 50282). Notice of renewal must be served by the owner at least ninety days before the renewal date or by

the legislative body at least sixty days prior to such date. If the contract is cancelled for breach of any condition or for failure to maintain or restore the property (Gov. Code, § 50284), the owner must pay to the State Controller a cancellation fee equal to 12.5 percent of the full value of the property at the time of cancellation (Gov. Code, § 50286). If, on the other hand, condemnation would frustrate the purpose of the contract, the contract is cancelled without any charge against the owner (Gov. Code, § 50288).

Concerning the valuation of such property, qualified historical property subject to such a contract is “enforceably restricted” (article XIII, section 8 and Rev. and Tax. Code, § 439) and “restricted historical property” (Rev. and Tax. Code, § 439.1). When valuing enforceably restricted historical property, the assessor is directed to use a specified capitalization of income method (Rev. and Tax. Code, § 439.2). In the event notice of nonrenewal has been served, an alternative statutory method is to be used (Rev. and Tax. Code, § 439.3). Finally in this regard, for sections 439 et seq. to be applicable, an enforceable restriction meeting the requirements of section 439 must be signed, accepted, and recorded on or before the lien date for the fiscal year in which the valuation would apply.

Very Truly Yours,

James K. McManigal, Jr.
Tax Counsel

JKM/rz