



Memorandum

.o : Mr. Verne Walton

Date : January 19, 1987

From : Robert R. Keeling

Subject : Fire Prevention Special Assessment Initiated Under Government Code 50078

This is in response to your memorandum dated January 7, 1987, in which you ask for an analysis of the propriety of a district initiating a special assessment under the provisions of Government Code section 50078. Section 50078 et seq. permits local fire suppression agencies to levy an assessment for the purpose of obtaining fire suppression equipment or apparatus. These sections specify procedural steps for notice to the landowners affected and for a hearing at which the local legislative body meets to determine the assessment. You present the situation of the Crest Forest Fire Board voting a one-time \$40.00 per parcel charge to purchase fire equipment. Mrs. Dorothy Strawn, a landowner affected, has asked whether this \$40.00 one-time charge is proper since it was adopted by the legislative body with three of five votes, a majority vote of less than two-thirds. Mrs. Strawn also asks whether recently adopted Proposition 62 does not prevent such adoption of the fire board by a simple majority vote.

The adoption of an assessment by a fire suppression district for fire fighting equipment to serve the land within the district is a "special assessment". A special assessment is a charge to real property to pay for benefits that property has received from a local improvement. (Wells v. Union Oil Company (1938) 25 Cal.App.2d 165) On the other hand Proposition 62 (Government Code sections 53720 et seq.) deals with local special taxes and general taxes. Therefore, Proposition 62 does not control the initiation of a special assessment since a special assessment is not a tax at all. (Wells v. Union Oil Company, supra) I, therefore, suggest that you respond to Mrs. Strawn by saying that Proposition 62 does not prohibit a local fire control district from initiating a special assessment by a

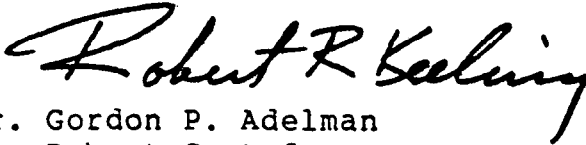
Mr. Verne Walton
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simple majority vote. The only control the local population has over the initiation of special assessments by an assessment district is to elect the legislative body that acts in their behalf.

RRK/rz



cc: Mr. Gordon P. Adelman
Mr. Robert Gustafson
Mr. Verne Walton