



STATE BOARD OF EQUALIZATION

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March 11, 1991

Mr. Gary L. Orso
Riverside County Assessor
4080 Lemon Street
Riverside, CA 92501-3659

Attn: Ms. Cathy Colt, Principal Appraiser
Standards Division

Dear Mr. Orso:

This is in response to your January 25, 1991, inquiry wherein you advised that Riverside County's Administrative Office is involved in a land transaction which will be significantly impacted by any tax consequences due to the way in which title to the property will be acquired/held, and you asked for our opinions concerning the following acquisition proposals:

RANPAC owns X acres of Santa Rosa Plateau, an area of known land conservation value and adjacent to land owned by Nature Conservancy on which Nature Conservancy claims, and gets, a Welfare Exemption.

RANPAC will convey this acreage to Nature Conservancy; concurrently Nature Conservancy will convey the acreage in two approximately equal parcels, possible vesting as follows:

Parcel 1: Restricted Use as Part of Deed

Alternative 1

State of California, Metropolitan Water District and Riverside County, in which case it will be non-taxable.

Alternative 2 (Most Likely)

State of California, Metropolitan Water District and C.O.R.A.L. (County of Riverside Assets Leasing Corp., non-profit corporation currently getting Welfare Exemption on other property it owns outright and leases to Riverside County).

Question 1: Would the property be eligible to file a Welfare Exemption under Alternative 2 mixed ownership? Would C.O.R.A.L. need to lease their interest back to the County in order to qualify for a Welfare Exemption?

As you are aware, property owned by the State is exempt from property taxation under Article XIII, Section 3(a) of the California Constitution, property owned by local governments, except as provided in Section 11(a), is exempt from property taxation under Article XIII, Section 3(b) thereof, and property owned by non-profit corporations meeting all the requirements of Revenue and Taxation Code Section 214 et seq. is exempt from property taxation under Article XIII, Section 4(b) thereof and Section 214. Review of our welfare exemption files discloses that in instances in which properties are owned jointly by governmental entities and non-profit corporations meeting all the requirements for exemption and the non-profit corporations have claimed the exemption for those portions of the properties they own, those portions of the properties have been found eligible for the exemption. Thus, assuming that County of Riverside Assets Leasing Corporation is a qualifying non-profit corporation meeting all the requirements for the exemption and that use of the property would be a qualifying use for purposes of Article XIII, Section 4(b) and Section 214, the Corporation could claim the exemption for that portion of the property it owned, and that portion of the property could be eligible for the exemption.

As the welfare exemption is both an ownership and a use exemption, were the property to be used by the State or a local government, the Corporation's portion of the property could receive the exemption under Section 214 and Section 214.6, assuming that the requirements of Section 214.6 also were met. Were the property to be used by another organization, the Corporation's portion of the property could receive the exemption under Section 214, assuming that the other organization was a qualifying religious, hospital, scientific, or charitable fund, foundation or corporation also meeting all the requirements of Section 214 et seq. and filing a timely claim for exemption as operator of the property.

Finally in this regard, as the welfare exemption is an ownership and a use exemption, as described, and as the local government exemption is an ownership exemption, for that portion of the property owned by the Corporation to be eligible for exemption, the Corporation as owner of the portion of the property would have to meet all the requirements for the welfare exemption, whether it used the property itself, leased its interest in the

property back to the County, or leased its interest in the property to another governmental entity or non-profit organization. As indicated above, in the cases of other users, Section 214.6 in instances involving governmental entities or Section 214 et seq. in instances involving non-profit organizations would have to be considered as well.

Parcel 2: Tentatively Non-Restricted Use

Alternative 3

Held in trust by the Security Pacific Bank with instructions that within seven (7) years property is granted to the State of California and the County.

Alternative 4

Held in trust by Security Pacific Bank with instructions that within seven (7) years property is granted to the state and C.O.R.A.L.

Alternative 5

Held in trust by Security Pacific Bank with instructions that within seven (7) years property is to be sold and the proceeds given to Metropolitan Water District and their name taken off Parcel 1.

Question 2: Would the property be eligible for a Welfare Exemption if for seven (7) years any of the three options could occur depending on the actions of the Metropolitan Water District (i.e., Whether they proceed with their water project) If a use restriction was incorporated in the trust document or the grant deed to the trust?

In instances in which properties are transferred and held in trust, the trustee holds legal title to the property while the beneficiary or beneficiaries hold equitable title and ownership of the property for property tax purposes. Thus, the nature of the present beneficiary or beneficiaries under the trust would be determinative.

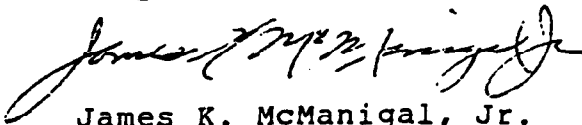
If the Metropolitan Water District or the County were the present beneficiary, the property could be exempt as property owned by a local government, subject to the provisions of Article XIII, Section 11(a) of the Constitution, if applicable, during the trust period. If the State were the present beneficiary, the property would be exempt as property owned by the State during the trust period. If the Corporation were the

beneficiary, the property would be exempt under the welfare exemption during the trust period if all of the requirements of Section 214 et seq. were met. And if the State and/or the County and/or the Metropolitan Water District and the Corporation were the beneficiaries, the property or a portion or portions thereof would be exempt or nonexempt during the trust period according to the analysis set forth in the answer to Question 1, above. Thus, unless the Corporation were the present beneficiary or one of the present beneficiaries of the trust during the trust period and all of the requirements of Section 214 et seq. were met by the Corporation and other users of the property, as applicable, the property would not be eligible for the welfare exemption during the trust period.

Were the trust thereafter terminated and the property granted to the State and to the County, the property would be exempt as property owned by the State and by the County, subject to the provisions of Article XIII, Section 11(a), if applicable. Were the trust thereafter terminated and the property granted to the State and to the Corporation, the property would be exempt as property owned by the State and eligible for exemption under the welfare exemption if all of the requirements of Section 214 et seq. were met by the Corporation and other users of the property, as applicable. Were the trust thereafter terminated, the property sold, and the proceeds given to the Metropolitan Water District, whether the property would be exempt or nonexempt would depend upon whom the new owner was and whether it was a local government or an organization that met the requirements for the welfare exemption or for any other exemption.

In conclusion, as the welfare exemption requires the filing of a claim for exemption annually, and as the granting or denying of a claim is dependent upon actual circumstances as they exist, our responses as this time are informational and not determinative. Our intention is to provide courteous and helpful responses to inquires such as this. Suggestions that help us do so are appreciated.

Very truly yours,



James K. McManigal, Jr.

JKM:jd
3724H

cc: Mr. John Hagerty
Mr. Verne Walton
Mr. Jim Barga