

**Guidance on the Assessment of Community Land Trust Housing
Interested Parties Meeting
July 12, 2018**

Summary

On April 10, 2018, staff met with interested parties to discuss proposed guidance related to Assembly Bill (AB) 2818, a 2016 bill that amended Revenue and Taxation Code section 402.1 to require county assessors to recognize certain land use restrictions imposed by community land trusts (CLTs). On June 26, 2018, staff issued revised guidance to make clear that the land underlying CLT housing must be valued reflecting the restrictions on use.

On July 12, 2018, staff met with interested parties to discuss the revised guidance. Present included a county assessor, representatives of various CLTs, and others.

Proposed Guidance

Staff's proposed guidance, in the form of a draft Letter To Assessors, would advise assessors to value the CLT homes by summing their nominal sales prices and the present values of future land lease payments from the homeowners to the CLTs. The guidance also advises that transactions entered into prior to the bill's effective date are not affected, except to the extent that, in subsequent years, a reduction is warranted as a "Proposition 8" decline in value.

Comments from CLT Representatives

- The sales prices for improvements on CLT lands include the value of the underlying lands, and therefore no additional value component should be added to reflect the present value of the land lease payments.
- AB 2818 amendments should be construed as being declaratory of existing law, and transactions that occurred prior to the bill's effective date should therefore also be covered. CLT representatives asked whether the assessor could correct the assessment roll under Revenue and Taxation Code section 4831 (or any similar provisions) if the assessor did not timely consider a decline in value following the effective date of AB 2818 amendments.
- The band of investment method for deriving a capitalization rate is not appropriate in determining the value of land.

Comments from Assessors

- Despite the intent of the bill, the amendments do not allow assessors to combine the value of the land with the value of the improvements.
- CLT representatives may wish to pursue legislation that would make clear that the purchase price of the improvements is presumed to include the value of the underlying land.
- The amendments do not authorize a retroactive application.

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Conclusion

- Staff will revise the proposed guidance to include guidance regarding the applicability of section 51.5 (b) and 4831(c). (See revised draft dated July 20, 2018.)
- Staff will identify issues as clarified at the July 12, 2018 meeting and include statutory references to support staff's position. (See below for this information.)

1. Issue: New taxable value of a CLT property upon a change in ownership.

Staff's Position. The new taxable value of a CLT property upon a change in ownership, inclusive of land and improvements, should be presumed to be the agreed upon purpose price of the improvements plus the present value of the payments from the homeowner to the CLT under the lease agreement. (In the absence of available market data, the lease payments may be said to serve as a proxy for economic rent.)

Statutory References: Section 110 (b), section 61(c)(1).

2. Issue: The effective date of AB 2818 amendments.

Staff's Position. The amendments made by AB 2818 are prospective from their effective date of September 27, 2016.

Statutory References: Section 402.1.

3. Issue: Capitalization rate.

Staff's Position. The band of investment technique is of practical import for purposes of capitalizing the lease payments for lands leased from CLTs.

Statutory References: Property Tax Rule 8(g)(2).

- Interested parties will submit alternative language by August 10, 2018 that will be included in the Formal Issue Paper that will be presented to the Board Members for consideration. (Staff indicated the Formal Issue Paper may be presented to the Board as early September 25th, 2018.)