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August 2, 2018

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David Yeung, Chief
County-Assessed Property Division
Property Tax Department
450 N Street, P.O. Box 942879
Sacramento, CA 94279-0064

Re: Marin County Recommendations for
Revised Draft – July 20, 2018
“Assessment of Community Land Trust Housing”

Dear Mr. Yeung:

This letter is in response to the request for alternate language regarding guidance to assessors on the assessment of Community Land Trust Housing. The revisions underlined, and in blue, below come from pages 2 and 3 of the July 20, 2018 Revised Draft.

[WITH RECOMMENDED CHANGES to July 20, Revised Draft.]

DECLINES IN VALUE AND CORRECTIONS

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

CLT affordable housing units purchased prior to that date, where an assessor did not recognize the restrictions for purposes of establishing the base year, may now need to be reviewed for possible declines in value. Provided all aspects of section 402.1(a)(11) are met, such assessments should now be reviewed by the assessor to ensure that, as provided under Proposition 8, the lower of factored base year value or market value (recognizing the restrictions on use) is enrolled on each prospective lien date. Assessors may correct a prior year's assessment, for effective event dates or lien dates on or after September 27, 2016, within a limited time frame to ensure these considerations were made.¹⁷

CLT affordable housing units purchased on or after the effective date of AB 2818 should have a base year value enrolled reflecting full cash value under section 110 et seq. (recognizing restrictions on use pursuant to section 402.1(a)(11), as applicable). If after certifying the assessment roll, the assessor discovers that a property has been

assessed over (or under) its current fair market value, on or after the September 27, 2016 effective date of AB 2818, he or she is authorized to make appropriate adjustments as permitted by statute within a specified time.¹⁸

¹⁷ Section 4831(a)(1).

¹⁸ Section 51.5(a) and 4831(a)(1).

Explanation:

(i) As written in the "Revised Draft" it might be argued that an assessor could look back, and incorrectly so, before AB 2818 of September 27, 2016 to make a value judgement correction. That would not be appropriate. Likewise, before September 27, 2016, Community Land Trust privately imposed restrictions between the parties would not be recognizable, either as a RTC 402.1 enforceable restriction or as an assessor's error correction pursuant to RTC 4831 or 51.5.

(ii) Footnotes 17 and 18 should be changed from RTC 4831(c) to 4831(a)(1). Correcting an error of not recognizing the fact that an assessment was subject to a RTC 402.1(11) enforceable restriction is a "fact", or a "factual error," and not a judgement error.

(iii) Footnote 18 should be changed from RTC 51.5(b) to 51.5(a). Correcting an error of not recognizing the fact that an assessment was subject to a RTC 402.1(11) enforceable restriction is a "fact", or a "factual error," and not a judgement error.

Thank you in advance for your consideration of these recommendations and please contact me if you need any further information.

Sincerely,



Richard N. Benson
Assessor – Recorder – County Clerk

cc: Angie Berry, Senior Specialist Property Appraiser, Board of Equalization
Chuck Leonhardt, CAA President, Assessor, Plumas County
Carmen Chu, CAA Standard's Chair, Assessor, San Francisco City & County