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No. 2013/008

TO COUNTY ASSESSORS:

CHANGE IN OWNERSHIP EXCLUSION: FLOATING HOME MARINA

Effective September 30, 2012, Assembly Bill 2046 (Stats. 2012, ch. 817) added section 62.5 to the Revenue and Taxation Code to create a change in ownership exclusion for a transfer of a floating home marina to an entity formed by the tenants of the marina. Specifically, section 62.5 excludes from the definition of "change in ownership" a transfer of a floating home marina to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina for the purpose of purchasing the floating home marina, as long as at least 51 percent of the individual tenants who were renting berths in the floating home marina prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity that acquires the floating home marina.

Background

In 1982, section 229 was added to the Revenue and Taxation Code¹ to extend the provisions of article XIII A of the California Constitution to floating homes, placing them on a property taxation system similar to that of manufactured homes and conventional homes.² To be treated as real property, a floating home must meet all of the following qualifications:

- (1) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.
- (2) It has no mode of power on its own.
- (3) It is dependent for utilities upon a continuous utility linkage to a source originating on shore.
- (4) It has a permanent continuous hookup to a shoreside sewage system.

A *floating home marina* is defined in Civil Code section 800.4 as an area where five or more floating home berths are rented, or held out for rent, to accommodate floating homes. A floating home marina does not include a marina where 10 percent or fewer of the berths are leased or held out to lease to floating homes nor a marina or harbor (a) which is managed by a nonprofit organization, the property, assets, and profits of which may not inure to any individual or group

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² Letter To Assessors 82/43.

of individuals, but only to another nonprofit organization; (b) the rules and regulations of which are set by majority vote of the berthholders thereof; and (c) which contains berths for fewer than 25 floating homes.

Change in Ownership Exclusion

For the transfer of a floating home marina to be excluded from change in ownership, at least 51 percent of the tenants who were renting berths prior to the transfer must own at least 51 percent of the ownership interests in the entity that acquires the floating home marina. However, if a tenant participation level of at least 51 percent is not attained, the county assessor shall reassess the real property owned by the floating home marina for the change in ownership. Unlike the change in ownership exclusion for mobilehome parks under section 62.1, section 62.5 does not provide an additional time period in which the 51 percent participation level can be attained.

Subsequent Changes in Ownership. Once a marina has been excluded from change in ownership, then any subsequent transfer of shares of the ownership interests in the entity that acquired the floating home marina is a change in ownership of a pro rata portion of the real property of the floating home marina. A "pro rata portion of the real property" means the total real property of the floating home marina multiplied by a fraction consisting of the number of shares of ownership interests in the entity.

A pro rata change in ownership does not apply if the transfers are for the purpose of converting the floating home marina to condominium, stock cooperative ownership, or limited equity cooperative ownership. In addition, a pro rata change in ownership may be excluded from change in ownership under sections 62, 63 (interspousal transfers), or 63.1 (parent-child transfers).

Reporting. If a marina does not use recorded deeds to transfer ownership interests in the berths, the marina must file with the county assessor, by February 1 of each year, a report that contains the following information:

- The full name and mailing address of each owner, stock holder, or holder of an ownership interest in the floating home marina.
- The situs address, including berth number and dock, of each unit.
- The date the ownership interest was acquired.
- The Department of Housing and Community Development decal number and/or serial number.

In addition, if a marina does not use recorded deeds to transfer ownership interests in the berths, then any new resident owner or other purchaser or transferee of a floating home within a floating home marina is required to file either a *Change in Ownership Statement* with the county assessor (pursuant to section 480) or a *Statement of Change in Control and Ownership of Legal Entities* with the State Board of Equalization (pursuant to section 480.2). Section 62.5 requires that the form must be filed within 30 days of the date of change in ownership.

Enclosed is a copy of section 62.5. If you have any questions regarding these provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

Effective September 30, 2012, section 62.5 is added to the Revenue and Taxation Code, to read:

62.5. (a) Notwithstanding any provision of this chapter, a change in ownership shall not include a transfer of a floating home marina to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina for the purpose of purchasing the floating home marina, provided that the individual tenants who were renting at least 51 percent of the berths in the floating home marina prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity that acquires the floating home marina.

(b) (1) If the transfer of a floating home marina has been excluded from a change in ownership pursuant to subdivision (a) and the floating home marina has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the floating home marina, unless the transfer is for the purpose of converting the floating home marina to condominium, stock cooperative ownership, or limited equity cooperative ownership, or is excluded from change in ownership by Section 62, 63, or 63.1.

(2) A floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths shall file, by February 1 of each year, a report with the county assessor's office containing all of the following information:

(A) The full name and mailing address of each owner, stock holder, or holder of an ownership interest in the floating home marina.

(B) The situs address, including berth number and dock, of each unit.

(C) The date the ownership interest was acquired.

(D) The Department of Housing and Community Development decal number or serial number, or both.

(3) Within 30 days of a change in ownership, the new resident owner or other purchaser or transferee of a floating home within a floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths, shall file a change in ownership statement described in either Section 480 or 480.2.

(c) For purposes of this section, both of the following shall apply:

(1) "Floating home marina" has the same meaning as defined in Section 800.4 of the Civil Code.

(2) "Pro rata portion of the real property" means the total real property of the floating home marina multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina in accordance with subdivision (a).