

LEASEHOLD IMPROVEMENTS AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the Leasehold Improvements Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
Civil Code	
§1013	Lessee's property affixed to the lessor's land without an agreement allowing removal becomes property of the lessor unless the §1013.5 right of removal is exercised.
§1013.5	A person acting in good faith who erroneously affixes improvements to the land of another, shall have the right to remove them upon payment to the land owner of damages resulting from affixing and removal of the improvements.
Revenue and Taxation Code	
§105(a)	"Improvements" includes: (a) All buildings, structures, fixtures, and fences erected on or affixed to the land.
§405	Except as otherwise provided by law, the assessor may assess property to the person who owns, claims, possesses, or controls it on the lien date. The assessor may assess property on the unsecured roll to both lessor and lessee; tax notices relating to jointly assessed property shall be sent to both lessor and lessee.
§2188	A tax on improvements is also a lien on the taxable land on which the improvements are located provided that both land and improvements are assessed to the same person.
§2188.1	The tax on foreign improvements can either be a lien on other real property in the county owned by the improvements owner or be assessed on the unsecured roll. To create a lien on other real property, the secured roll must show such a notation of lien.
§2188.2	Foreign improvements must be assessed to their owner (may not be assessed to the landlord), provided that a written request for separate assessment is filed with the assessor before the lien date, and such a request shall remain in force until cancelled or voided by a subsequent change in ownership of either land or improvements.
§2188.4	Under certain conditions, a portion of a parcel of land and improvements must be separately assessed to the lessee if the lease is for 15 years or more, the lessee is responsible for the property taxes, and either lessor or lessee request separate assessment prior to the lien date.
Property Tax Rules	
Rule 122.5	Fixtures: definition, 3-fold classification test (manner of annexation, adaptability to realty's purpose, and intent of annexation), examples.

CITATION	DESCRIPTION
	Agricultural wind machines are listed as examples of fixtures.
Assessors' Handbook	
AH 504	Assessor's Handbook Section 504, <i>Assessment of Personal Property and Fixtures</i> , October 2002 Chapter 5 deals with the assessment and valuation of leasehold improvements.
Special Topic Survey	
	<u>Assessment Coordination Between Real Property and Business Property Divisions on Tenant Improvements</u> (December 1999). Appendix 2 (pages 27-31) provides suggested method for coordinating the assessment of leasehold improvements.
LTA's	
2002/078	BOE guidelines for the assessment of billboard properties: <ul style="list-style-type: none"> • Billboards are classified as fixtures • A sale of a billboard normally includes the sign and foundation (improvements), the use permit (land), and the site (leasehold interest in the land). • The leasehold interest cannot be assessed unless the fee interest in the land sells. • The income approach is not favored because of the difficulty in isolating income attributable to the taxable property - much of the income depends on location, allocable to land (and not billboard). • The billboard use permit is an intangible asset that is not separately assessable but must be reflected in the land value.

CITATION	DESCRIPTION
Annotations	
170.0050	Foreign improvements for which separate assessment has been requested may be assessed on the secured roll if the lien can be placed against other real property owned by the owner of the foreign improvements; or they may be assessed on the unsecured roll to their owner.
170.0051	Either tenant or landlord may force the assessor to separately assess land and improvements by filing the request provided in §2188.2 . That section is mandatory.
170.0052	§2188.2 applies even when a portion of the improvements on another's land is owned by the lessee.
220.0322	Pursuant to Civil Code section 1013, the doctrine of accession provides that when a person affixes his property to the land of another, without an agreement permitting him to remove it, the thing affixed belongs to the owner of the land. Thus, absent lease provisions under which the lessee retains title to the improvements, title passes to the lessor upon the completion of the construction.
220.0360	When a 35 year lease provides that lessee-installed improvements shall at the expiration or earlier termination of the lease become the property of the lessor, a question arises as to whether or not the improvements have changed ownership if the lessor sells the property and the new owner negotiates a new lease. Since the sale would be of property subject to a lease with less than 35 years remaining, the structure and the tenant improvements would both be subject to reappraisal per Property Tax rule 462(f)(1)(B)(i), whether or not the "improvement ownership" clause became operative. The ownership of the improvements would turn on the actual intent of the parties, but would be meaningful for assessment purposes only as regards the billing of the correct assessee for the property that assessee owns.