

Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: April 5, 2011

From: Randy Ferris 
Acting Chief Counsel

Subject: Other Chief Counsel Matters – April 25-27, 2011
Item Number M1
Request for Authorization to File *Amicus Curiae* Brief

Assessor for County of Santa Barbara v. Assessment Appeals Board No. 1
(Real Parties in Interest: Rancho Goleta Lakeside Mobileers, et al.)
Santa Barbara County Superior Court Case No. 01244457
Second District Court of Appeal No. B229656

This memorandum is to request approval to file an *amicus curiae* brief in the above-referenced matter. This case has the potential for statewide impact on the valuation of resident-owned mobilehome property, which includes the mobilehome and land on which it is situated, under Revenue and Taxation Code¹ section 62.1, and on the State Board of Equalization's (Board's) longstanding interpretation and application of current law.

Section 62.1 was enacted to facilitate affordable conversions of mobilehome parks to tenant ownership. (Rev. & Tax. Code, § 62.1, subd. (c).) It accomplishes this by providing that certain transfers of mobilehome parks to a resident-owned entity are not a change in ownership of the mobilehome park. (Rev. & Tax. Code, § 62.1, subd. (a).) After such a transfer, the resident-owned entity owns the entire park and each resident receives a certificate representing his fractional interest in the park. Each individual owner also continues to own his or her mobilehome. Once a transfer of a mobilehome park has been excluded from change in ownership pursuant to section 62.1, subdivision (a), subsequent transfers of the now individually owned mobilehome property are not excluded from change in ownership and are subject to reappraisal. Section 62.1, subdivision (b)(1) provides that the transfer of an ownership interest in the entity that acquired the park is a change in ownership of "a pro rata portion of the real property of the park." Section 62.1, subdivision (b)(2) defines "pro rata portion of the real property" to mean:

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

the total real property of the mobilehome park 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 park in accordance with paragraph (1) of subdivision (a).

In this case, two mobilehome parks located in Santa Barbara County benefited from the section 62.1 exclusion from change in ownership when they became tenant-owned. Subsequently, 26 individual mobilehome properties, consisting of the land and home, were offered for sale on the open market and advertised in the Multiple Listing Service (MLS), with the specific attributes of the individual mobilehomes and their designated spaces highlighted in the applicable MLS listing. Each of the 26 separate transactions at issue in this case constituted a change in ownership which required the Santa Barbara County Assessor (Assessor) to reassess each property.

In reassessing each property, the Assessor followed the Board's guidance and reassessed each property at its purchase price, allocating value to the home itself according to a recognized value guide, and allocating the remainder of the purchase price to the land. This guidance for valuing mobilehome property is clearly set forth in Letter to Assessors (LTA) 99/87 and Assessors' Handbook Section 511 (AH 511), *Assessment of Manufactured Homes and Parks*. This methodology also is consistent with fundamental constitutional and statutory requirements for assessing property, including California Constitution, article XIII, section 1, subdivision (a)'s requirement that "all property is taxable and shall be assessed at the same percentage of fair market value," as well as sections 51, 62.1, 110, and 110.1 regarding base-year value, appraisal unit, mobilehome property, and full cash value. The Board's approved methodology also is consistent with Property Tax Rule 2's purchase price presumption.

In spite of this, the Superior Court rejected the Assessor's approach and held that section 62.1's requirement that a change in ownership of the "pro rata portion of the property" on the sale of an individual mobilehome property means that the value of the land must be calculated by appraising the entire mobilehome park and dividing that value by the total number of individual spaces in the park. This valuation method misapplies the concept of "pro rata portion of the real property" as used in section 62.1, subdivision (b). Section 62.1 is a change-in-ownership provision that establishes a formula for determining what portion of a mobilehome park's real property undergoes reassessment upon transfer, but does not dictate how to value such property. Valuation of the property must be done in accordance with the constitutional and statutory sections cited above. Furthermore, the Superior Court's method is inconsistent with those sections cited above in at least the following ways: it treats the entire mobilehome park as the appraisal unit rather than the individual mobilehome property being sold; it fails to consider the specific purchase price paid by the new owner of that property, and thus ignores specific attributes such as size and location of the mobilehome land sold; it improperly requires the entire mobilehome park to be reappraised each time an individual mobilehome property is sold; and it jeopardizes other potential property tax benefits that could be enjoyed by the tenant-owners, including sections 218 (homeowners' exemption), and 69.5 (base-year value transfer).

The difference between the Superior Court's method and the Board's guidance is significant, and its divergent valuation conclusions are best illustrated by the following example: Property #33 in the Rancho Goleta mobilehome park was sold for \$205,000 with \$22,500 allocated to the

mobilehome. Pursuant to Board guidance, the remaining value of \$182,500 must be assigned to the land resulting in a total assessed value of the land and home equal to the fair market value of the property (\$182,500 + \$22,500= \$205,000). By contrast, the Superior Court established a value of \$65,000 for the land based on an appraisal of the entire park – which consisted of 200 spaces – of \$13,000,000 (\$13,000,000/200 = \$65,000). Thus, the total assessed value of the land and home using the Superior Court’s method would be only \$87,500 (\$65,000 + \$22,500= \$87,500), even though the entire property sold in an arms-length transaction for \$205,000. Over many sales of individual properties, this monetary effect is, of course, magnified. For the 26 individual transactions that are the subject of this lawsuit, the assessed value of the real property was reduced by approximately 70 percent.

If allowed to stand, this case would overturn longstanding Board guidance regarding the proper way to value transferred mobilehome property interests and violate well-established valuation statutes and rules.

For the above reasons, the Legal Department requests that the Board approve filing an *amicus* brief in this case. Should you require additional information or have any questions, please contact Assistant Chief Counsel Robert Lambert at (916) 324-6593 or Tax Counsel IV Richard Moon at (949) 440-3486.

Approved:


Kristine Cazadd
Interim Executive Director

RMF:MAT/mcb

J:/Chief Counsel/Finals/Board Memo – Item M1 – Request for Authority to File Amicus Curiae Brief – 04-05-2011.doc
J:/Prop/Finals/Monthly CC Agenda Items/2011/11-046.doc

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March 4, 2011

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Re: Assessor for County of Santa Barbara v. Assessment Appeals Board No. 1
Santa Barbara Superior Court Case No. 01244457, Appellate Case No. B229656
(Real Parties in Interest: Rancho Goleta Mobileers & Silver Sands Village)

Dear Mr. Lambert:

As counsel for the Assessor for the County of Santa Barbara, I ask that you consider this request for amicus support in the appeal now pending in Division 6 of the Second Appellate District. As explained below, this case has significant state-wide implications because, if the Assessor does not prevail on appeal, the State Board of Equalization's (SBE's) guidelines regarding the proper way to value transferred mobile home interests will be overturned and the well established rules regarding the "purchase price presumption" and "appraisal units" will be diminished.

Background

The above-mentioned Rancho Goleta/Silver Sands case centers on a dispute regarding the proper way to value resident owned mobile homes under Revenue & Taxation Code section 62.1. As you know, when an ownership interest in a resident owned mobile home park is sold or transferred - - a transfer of ownership occurs. That transfer must be assessed. The SBE provides specific guidelines to Assessors regarding the proper way to value transferred mobile home interests. The Assessor followed the SBE's recommended approach when he assessed the Rancho Goleta and Silver Sands transfers.

Difference in Valuation Methods

1. SBE Valuation Method Applied by the Assessor

When different mobile homes within the same park are sold, they routinely sell for different amounts due to differences in:

- a. The attributes of the mobile coach acquired; and
- b. The size and location of the mobile home space to be occupied.

The valuation method applied by the Assessor recognized the attributes of the size and location of the mobile home space when he determined the fair market value of the transferred property interest. Following the advisory materials provided by the SBE, the Assessor valued each transferred mobile home interest by using the following formula:

- Subtracting the "blue book" value of the coach from purchase price paid; and
- Using the resulting amount to value the transferred "undivided interest" in the mobile home park.

The SBE/Assessor's method can also be described as follows:

Purchase Price - FMV of Mobile Home = FMV of Transferred Ownership Interest
(this interest is basically the space plus a share of the common areas)

2. Assessment Appeals Board's Valuation Method

The valuation method applied by the AAB ignores the purchase price paid for the interest. The AAB essentially throws out the "sales price presumption," one of the most fundamental concepts of Prop 13. The AAB:

- Determines the fair market value of the entire mobile home park; and
- Divides the value for the entire park by fractional ownership interest.

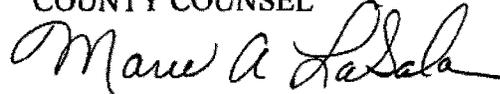
Determining the fair market value of an entire mobile home park is very difficult and expensive. First, entire mobile home parks are seldom sold. Second, it is extremely burdensome (to the point of absurdity) to require an applicant to spend thousands of dollars to appraise an entire mobile home park just to find out what one interest is worth. This problem is avoided by simply applying the "sales price presumption" used to value condominiums and single family homes.

Mr. Lambert
March 4, 2011
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Thank you for your consideration of this request for amicus support. If you have any questions regarding this litigation please feel free to contact me.

Best regards,

DENNIS A. MARSHALL
COUNTY COUNSEL

A handwritten signature in cursive script that reads "Marie A. La Sala".

Marie A. La Sala
Deputy County Counsel

MLS/cd

cc: Rick Holly, Chief Deputy Clerk-Recorder-Assessor
Joseph E. Holland, Clerk-Recorder-Assessor

Individual Transfers of Ownership in Resident Owned Mobile Home Parks

Presented by Santa Barbara County

Rick Holly, Chief Appraiser 805-568-2573 Holly@co.santa-barbara.ca.us

Status

- Santa Barbara has appeals on resident owned parks from the year 2002 through 2010.
- The Appeals Board ruled in the applicants favor
- The Superior court simply denied the Writ of Mandate
- A hearing at the Appeals court is expected within the next 9 months
- The appeal hearing will be in Division 6 of the 2nd District Court of Appeal in Ventura. The ruling in this case will be controlling for all California counties
- Santa Barbara Counsel will request that the SBE and CSAC join in an amicus brief. Can your counsel help?

References: The Assessment of Resident Owned Parks is addressed in:

- R&T 62.1
- LTA 99/87 Individual Transfers in Resident-Owned Parks
- LTA 89/13 Mobile Home Park Exclusion
- LTA 2002/10 Pro-Rata Changes in Ownership of Mobile Home Parks
- AH 511, Assessment of Manufactured Homes and Parks, (11-01)
- AH 401, Change in Ownership, (09-10)

Issue

An investor owned rental park can be purchased by the tenants; this transfer is excluded from re-appraisal pursuant to R&T 62.1. However, subsequent individual transfers of ownership are considered re-appraisable changes in ownership of the real estate

The fundamental issue is how the assessor should process these subsequent transfers of ownership of individual interests. That is: when a mobile home and "space" sell; how should the assessor proceed? Santa Barbara followed LTA 99/87

Decision

1. The SBE says the individual mobile home space is the appraisal unit. The AAB ruled the entire park is the appraisal unit. Comment: That means when one space/interest transfers, the entire mobile home park must be reappraised in order to determine the value of the one space/interest
2. The SBE says to allocate the purchase price between the mobile home and the space/interest. The AAB ruled that the "purchase price is not controlling." Comment: The AAB, in effect, threw out Rule 2. What value would be enrolled if not the purchase price?
3. The SBE says that the purchase of an interest in a resident owned park should be treated like condos and homes and conveys 1) outright ownership of the mobile home and 2) the exclusive right to occupy a particular space within the park. The AAB ruled that the residents are still renters (renting from their own corporation that purchased the park) and that they do not have a right to occupy a particular space. Comment: So the park was a rental park, the residents bought it and it is still a rental park.
4. The SBE says R&T 62.1 defines "pro-rata portion" to mean that a fractional interest in a park has transferred ownership that gives rise to a re-assessment of the interest, say 1/100. The AAB says that R&T 62.1 prescribes a formula and the manner to value the interest and that the formula is, say: $1/100 \times \text{fmv of real property} = \text{fmv of the } 1/100 \text{ interest}$. Comment: 62.1 is a change in ownership section and does not say how to value property. The word and concept of "fair market value" does not appear in 62.1.
5. The SBE advice would assign different values to each space/interest based on its market value. The AAB ruled that all spaces/interest have the same value. Comment: The AAB says all spaces/interests must have the same value because they combine the concept of value into R&T 62.1. The assessor says that pro-rata does not mean all must be equal, rather that each space/interest is different; e.g.: there are 50 people in this room; one person is 1/50, but we are not all the same.
6. Other conflicts created by the AAB decision

6. Other conflicts created by the AAB decision

- a. If the decision throws out Rule 2 and the purchase price.....is the purchase price presumption also thrown-out?
- b. If the taxpayer wishes to appeal, they must appeal the value of the entire mobile home park, not the value of their one space/interest.
- c. If the taxpayer wants a section 51 review, they must apply for a section 51 on the entire park, not just their space/interest.
- d. If a taxpayer wishes to transfer their base under Prop 60, what values are used to in the buying down comparison? What base is transferred; the purchase price that was ignored or the pro-rated value of an interest in the entire park?
- e. If the residents are in fact still renters, should the original change in ownership from rental park to resident park not have been excluded under R&T 62.1?
- f. If the residents are renters, then can they qualify for home owner exemption on the land?