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No. 90/07

January 29, 1990

TO COUNTY ASSESSORS:

CROCKER NATIONAL BANK v. CITY & COUNTY OF SAN FRANCISCO

On November 30, 1989 the California Supreme Court ruled that general purpose electronic data processing equipment are personalty and do not constitute fixtures, even when placed in a building planned and constructed as a data processing center with safety, security, cooling, power, and fire suppression systems designed into the building.

In the captioned case, the court elaborated on the test of "intent" and established that "intent of the parties" was a critical part of the test to determine whether an item of property should be classified as a fixture. The opinion of the court derives from an analysis of the common law theory of a fixture dated back to 1853. The opinion places strong reliance on whether the property in question would be considered a permanent part of a building. Following is an excerpt from the ruling:

"... and because the 'intent' here is constructive and not actual, the test reduces itself to whether a reasonable person would consider the item to be a permanent part of the property, taking into account annexation, adaptation, and other objective manifestations of permanence ."

In addressing a contrary conclusion on classification reached in the 1964 decision, the Bank of America v. County of Los Angeles, 224 Cal.App. 2d 108, the court indicated that the case cannot be relied upon today but might have been valid a quarter of a century ago.

In citing cases which it found consistent with its opinion, the court listed San Diego T & S Bank v. San Diego, (1940) 16 Cal. 2d 142, and Trabue Pittman Corp. v. County of Los Angeles, 29 Cal. 2d 385. The court emphasized that in both cases the items which were considered fixtures were items which:

"A reasonable person might well consider...to be permanent parts of the host real property; such items have clearly been integrated into the structure."

This opinion continues the trend of recent decisions rejecting a broad definition of fixtures and restricting fixtures to those items of personalty which become a permanent addition to the real estate. The Supreme Court, in its conclusion to this case, states:

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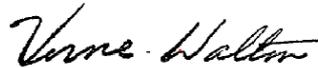
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"... a reasonable person, taking into account annexation, adaptation, and other objective manifestations of permanence, would not consider the equipment at issue to constitute a permanent part of the building."

A second important issue addressed by the court involved the standard of review. The court held that property classifications of this kind present mixed questions of both fact and law. As such, each court must independently review the decision of the assessor or appeals board to insure uniformity. The substantial evidence test does not apply to these questions.

Please contact Business Property Technical Services staff at (916) 445-4982 if you have questions or would like a copy of this court case.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk