



(916) 323-7715

October 29, 1985

Mr. Raymond Olivarria
Amador County Assessor
108 Court Street
Jackson, CA 95642

Ms. Mary L. Corzine
Assessment Clerk

Dear Mr. Olivarria:

This is in response to your October 8, 1985, letter to Mr. William Grommet wherein you asked whether property owned by the Sacramento City Unified School District in Amador County and used for public school purposes is eligible for the public schools exemption.

As you know, the public schools exemption is set forth in Article XIII, Section 3(d) of the Constitution and Revenue and Taxation Code Section 202(a)(3). Former Article XIII, Section 1 of the Constitution was to the same effect:

"...and further provided, that...property used exclusively for public schools,... shall be exempt from taxation,...."

In 1974, the Santa Cruz County Counsel had occasion to construe the above-mentioned language of former Article XIII, Section 1 in conjunction with an out-of-county school district's purchase of property in Santa Cruz County and use thereof for outdoor science education and conservation education programs and classes (public school purposes). Based upon the similar language of former Article XIII, Section 1 which pertained to the college exemption; the District Court of Appeal's decision in Church Divinity School v. Alameda County, 152 Cal.App.2d 496, which construed that language to exempt "any facilities which are reasonably necessary for the fulfillment of a generally recognized function of a complete modern college"; and Education Code Sections authorizing school districts to acquire and use properties outside their boundaries for public school purposes, the County Counsel concluded that the property was eligible for the public schools exemption.

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A copy of the County Counsel's Opinion No. 74/57, with references to the school district and property deleted, is enclosed for your review.

Thereafter, a copy of the Opinion was forwarded to then Assistant Chief Counsel J. J. Delaney who, upon review thereof, advised in a June 20, 1974, letter to the County Assessor that he agreed with the conclusion that the property was eligible for the public schools exemption. A copy of Mr. Delaney's June 20 letter is also enclosed for your review.

Given the above and the language of Article XIII, Section 3(d), we remain of the opinion that property owned by a school district in another county and used for public school purposes is eligible for the public schools exemption. From the outset, it has been the exclusive use of property for public school purposes which has been determinative of exemption, and the courts have continuously emphasized that the exemption is for the advantage of school districts (Ross v. City of Long Beach (1944), 24 Cal.2d 258, and Yttrup Homes v. Sacramento County (1977), 73 Cal.App.3d 279).

In conclusion, enclosed is a copy of a July 8, 1975, Attorney General's Opinion No. CV 75-60 wherein it is concluded that eligibility for the exemption is to be determined as of the lien date each year.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

Enclosures

cc: Mr. William Grommet

bc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton
Legal Section