



STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
1-916-274-3350 • FAX 1-916-285-0134
www.boe.ca.gov

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No. 2021/001

January 8, 2021

TO COUNTY ASSESSORS:

ASSESSMENT AND EXEMPTION OF COMMUNITY LAND TRUST HOUSING

The attached draft Letter To Assessors (LTA) provides information on the treatment of community land trust (CLT) housing in light of the enactment of Assembly Bill (AB) 2818 (Chapter 701, Statutes of 2016), Senate Bill (SB) 196 (Chapter 669, Statutes of 2019), and, most recently, SB 1473 (Chapter 371, Statutes of 2020).

Over the past several years, the State Board of Equalization (BOE) staff and interested parties have been engaged in discussions regarding the assessment of CLT low-income housing projects. Based on those discussions and in light of the enactment of AB 2818, SB 196, and SB 1473, BOE staff have drafted an LTA to provide guidance on the implementation of these three bills.

Prior to the passing of SB 1473, BOE staff issued a prior draft LTA, which was announced in LTA No. 2020/008 on February 14, 2020, requesting all comments related to the draft LTA be submitted by March 20, 2020. BOE staff have reviewed and incorporated those comments previously received, which can be seen in strikeout and underline format in the attached amended draft LTA. A matrix is also attached, which includes each comment previously received, as well as the additions by BOE staff regarding SB 1473. Please review the attached amended draft and submit all comments in strikeout and underline format to Ms. Angie Berry at angie.berry@boe.ca.gov by February 12, 2021.

After all comments received are reviewed, BOE staff will hold an interested parties meeting if there are any outstanding issues. If no comments are received, the attached draft LTA will be presented to the Board Members for adoption. Documents and comments related to this project are available on the BOE's website at:

<https://www.boe.ca.gov/proptaxes/assessment-of-community-land-trust-housing.htm>

If you have any questions regarding this project, please contact Ms. Angie Berry at angie.berry@boe.ca.gov or 1-916-274-3376.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:ab
Attachment

PROPOSED DRAFT LTA

ASSESSMENT AND EXEMPTION OF COMMUNITY LAND TRUST HOUSING

This Letter To Assessors (LTA) provides information on the treatment of community land trust housing in light of the enactment of both Assembly Bill (AB) 2818 (Chapter 701, Statutes of 2016), Senate Bill (SB) 196 (Chapter 669, Statutes of 2019), and, most recently, ~~Senate Bill (SB) 1473~~ (Chapter 371, Statutes of 2020).

The combined effects of these ~~two~~ three enactments ~~is~~ are to: (1) require County Assessors to recognize restrictions on use imposed by community land trusts, (2) establish a rebuttable presumption that the purchase price of a community land trust home includes both the home and the leased land on which the home is situated, and (3) make community land trust ~~housing~~ property eligible for the welfare exemption prior to commencement of construction under certain conditions.

Introduction

Community land trusts (CLT) are non-profit organizations that facilitate the development of permanently affordable for-sale and rental housing on land owned by the CLT. With respect to for-sale housing, CLTs make home ownership available at affordable prices to persons of low and moderate income. Buyers acquire full ownership of their physical homes—the improvements, but lease the underlying land parcels from the CLTs under renewable 99-year ground leases restricting resale to low and moderate purchasers at affordable prices. This model allows CLTs to maintain permanent communities of affordable home ownership, even as individual homeowners replace each other over time.¹

To make these arrangements affordable, lease payments are typically nominal in amount, effectively shielding the homeowners from the true cost of the underlying land parcels. The true land costs are typically offset by funding from public programs, including the federal HOME Investment Partnerships Program and Community Block Grant Program, as well as a variety of state and local affordable housing funding sources.

Enforceable Deed Restrictions on Use Under Section 402.1

Effective September 27, 2016, AB 2818 added paragraph (11) to Revenue and Taxations Code² section 402.1(a) to require County Assessors to consider use restrictions on CLT housing. These provisions require Assessors to consider recorded restrictions imposed by a CLT that impact property value. This requirement applies only when all of the following conditions are met:

- The CLT, that is a party to the contract, is a nonprofit corporation organized pursuant to Internal Revenue Code section 501(c)(3), ~~maintains a welfare exemption~~, and is organized for the primary purposes of the creation and maintenance of permanently affordable single- or multi-family residences, including either rentals or for-sale homes.³

¹ A CLT may also partner with a limited equity housing cooperative (LEHC) that shares the objective of providing affordable housing. Under this model, individuals retain the rights to their homes either through possession of a share in the LEHC or by renting from the LEHC.

² Unless otherwise specified, all statutory references are to the Revenue and Taxation Code.

³ Section 402.1, subd. (a)(11)(C)(ii).

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- 1 • The contract between the CLT and the homeowner must be recorded and provided to the
2 assessor.⁴
- 3 • The contract between the CLT and the homeowner provides that the CLT leases the land
4 that the home is situated on to the buyer for a renewable 99-year term.⁵
- 5 • The initial sale and future resales must be to persons and families of low or moderate
6 income.⁶ Persons and families of low or moderate income may either own the home
7 directly or own ~~the home in the form~~ a share of a limited equity housing cooperative, as
8 defined in Civil Code section 817.⁷
- 9 • The home must serve as the buyer's primary residence.⁸
- 10 • The sale or resale price of the home must be determined by a formula that ensures the
11 home has a purchase price that is affordable to qualified owners.⁹
- 12 • A CLT must have the right to repurchase the home to preserve its affordability for
13 qualified owners.¹⁰

14

15 **After CLT Property Sale to Qualified Owner, Sale Price for the Home Includes the Leased**
16 **Land—Rebuttable Presumption**

17 Once a CLT sells a home and transfers the leasehold interest in the land to a qualified owner
18 purchaser,¹¹ both the land and the improvements are reassessed to ~~current~~ fair market value,
19 because both the sale of the home and the 99-year lease are reassessable changes in ownership. If
20 the conditions of section 402.1(a)(11) are met, the Assessor must consider the effect on value of
21 any enforceable deed restrictions.

22

23 The enactment of SB 196 created a rebuttable presumption that the sale or resale price of a CLT
24 home includes the value of both the home and the land leased from a CLT on which the home is
25 situated.¹² The law also provides that any declines in value or corrections of base year values
26 resulting from the application of this rebuttable presumption shall apply to all lien dates occurring
27 after September 27, 2016.¹³

28

29 The rebuttable presumption may be overcome if the Assessor has evidence to establish that all or
30 a portion of the market value of the leased land is not reflected in the sale or resale price of the
31 home.

⁴ Section 402.1, subd. (a)(11)(A)(iv).

⁵ Section 402.1, subd. (a)(11)(A)(i).

⁶ The term "persons and families of lower or moderate income households" is defined in section 402.1(a)(11)(C) (iv) by cross-reference to Health and Safety Code section 50093. Additionally, the BOE issues an annual Letter To Assessors to report the applicable household income limits.

⁷ Section 402.1, subd. (a)(11)(C)(iii).

⁸ Section 402.1, subd. (a)(11)(C)(ii)(II).

⁹ Section 402.1, subd. (a)(11)(C)(i)(II).

¹⁰ Section 402.1, subd. (a)(11)(C)(i)(III).

¹¹ The term qualified owner purchaser refers to a CLT home purchaser that is from a "person and [or] family of lower and or moderate income household," as defined in section 402.1(a)(11)(C)(iv) by cross-reference to Health and Safety Code section 50093.

¹² Section 402.1, subd. (a)(11)(B)(i).

¹³ Section 402.1, subd. (a)(11)(B)(ii).

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1 Welfare Exemption

2 Effective as of lien date January 1, 2020, SB 196 added section 214.18, which provides that a CLT
3 is may be eligible to claim the welfare exemption if all of the following conditions are met:¹⁴

- 4
- 5 • The property is being or will be developed or rehabilitated as an owner-occupied
6 single-family dwelling, owner-occupied unit in a multifamily dwelling, a member-
7 occupied unit in a limited equity housing cooperative, or a rental housing development;
- 8
- 9 • Improvements are or will be available for use and ownership or for rent by qualified
10 persons; and
- 11
- 12 • For owner-occupied homes, a A deed restriction or other instrument serving as an
13 enforceable restriction on the sale or resale value of owner-occupied units ~~or the~~
14 ~~affordability of rental units~~ is recorded.
- 15
- 16 • For rental housing, an enforceable and verifiable agreement with a public agency, a
17 recorded deed restriction, or other legal document exists, as described in section
18 214(g)(2)(A).
- 19

20 It should be noted, as with any other welfare exemption claim, an Organizational Clearance
21 Certificate (OCC) must first be issued to the CLT by the State Board of Equalization (BOE) in
22 order for the CLT to be eligible for the welfare exemption.¹⁵

23

24 Additionally, for rental housing developments, once the property is in the course of construction,
25 the property shall be deemed to qualify for the exemption provided under section 214 and, on
26 subsequent lien dates, the property shall qualify for exemption pursuant to section 214.¹⁶

27 *CLT Welfare Exemption Eligibility—Definitions*

- 28
- 29
- 30 • "Community land trust" has the same meaning as provided in section 402.1(a)(11)(B)(ii)
31 (a)(11)(C)(ii).¹⁷
- 32
- 33 • For property developed for owner-occupied housing, "qualified persons" means persons
34 and families of low or moderate income, including persons and families that own a
35 dwelling or unit collectively as member occupants or resident shareholders of a limited
36 equity housing cooperative. "Persons and families of low or moderate income" has the
37 same meaning as provided in Health and Safety Code section 50093. For property
38 developed for rental housing, "qualified persons" means persons and families of low

¹⁴ Section 214.18, subs. (a)(1) through (3).

¹⁵ The BOE and the 58 County Assessors jointly administer the welfare exemption. The BOE determines whether an organization is organized and operated for a qualifying purpose under the provisions of section 214 to obtain an OCC, while the County Assessor determines whether the organization's use of the property is eligible for the welfare exemption. Once a claimant is issued an OCC, the claimant would then submit their OCC, along with their claim form for the welfare exemption, to the County Assessor where the property seeking exemption is located.

¹⁶ Section 214.18, subd. (b)(2).

¹⁷ ~~This reference, found in section 214.18, subdivision (c)(1), is erroneous. The correct reference would be to section 402.1(a)(11)(C)(ii). Staff has proposed legislation that would correct the error.~~

PROPOSED DRAFT LTA

1 income. "Persons and families of low income" has the same meaning as provided in
2 Health and Safety Code section 50079.5.¹⁸

- 3
- 4 • "Rental housing development" means a rental housing development in which all of the
5 residential units in the development, other than units provided to property managers, are
6 required to be rented to and occupied by persons and families of low or moderate income,
7 at rents that do not exceed an affordable rent, as described in Health and Safety Code
8 section 50053.¹⁹
 - 9
 - 10 • "Course of construction" has the same meaning as the term "facilities in the course of
11 construction," as used and defined in sections 214.1 and 214.2.²⁰ Section 214.1 defines
12 property used exclusively for religious, hospital, or charitable purposes to include
13 facilities in the course of construction, together with the land on which the facilities are
14 located as may be required for their convenient use and occupation. Section 214.2 states
15 that, as used in section 214.1, "facilities in the course of construction" include the
16 demolition or razing of a building with the intent to replace the building with a facility
17 to be used exclusively for religious, hospital, or charitable purposes.²¹ Additionally,
18 "facilities in the course of construction" must have activity connected with the
19 construction or rehabilitation of a new or existing building or improvement that results
20 in physical changes visible to any person inspecting the site where the building or
21 improvement is located.²²
 - 22
 - 23 • For property developed for owner-occupied housing, "qualified persons" means persons
24 and families of low or moderate income, including persons and families of low or
25 moderate income that own a dwelling or unit collectively as member occupants or
26 resident shareholders of a limited equity housing cooperative.²³ "Persons and families of
27 low or moderate income" has the same meaning as defined in Health and Safety Code
28 section 50093.
 - 29

30 *Welfare Exemption Eligibility for CLT Property Prior to Commencement Housing Under the*
31 *Course of Construction—Five-Year Window*

32

33 Property meeting the requirements of section 214.18 is under the course of construction can be
34 eligible for the welfare exemption for the following periods prior to the commencement of the
35 development or rehabilitation of housing on the property:

- 36
- 37 • Lien dates 2020 through 2024, inclusive, for property acquired by the CLT prior to
38 January 1, 2020.²⁴
 - 39

¹⁸ Section 214.18, subs. (c)(4), (5), and (6).

¹⁹ Section 214.18, subd. (c)(7).

²⁰ Section 214.18, subd. (c)(2).

²¹ Section 214.2, subd. (a).

²² Section 214.21, subd. (b).

²³ Section 214.18, subd. (c)(6).

²⁴ Section 214.18, subd. (e)(1).

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- 1 • The first five lien dates following the acquisition of property by the CLT, if the
2 acquisition occurred from January 1, 2020, through December 31, 2024.²⁵

3
4 Property acquired between January 1, 2020 and December 31, 2024, can be exempt for the entire
5 five-year period, even though this period will extend beyond the sunset date of section 214.18.²⁶

6
7 If the property was not developed or rehabilitated or in the process of being developed or
8 rehabilitated by the end of the five-year exemption period, the CLT will be liable for property tax
9 for the years for which the property was exempt. Specifically, the property must be at least in the
10 process of being developed or rehabilitated:

- 11
12 • By January 1, 2025, if the property was acquired by the CLT before January 1, 2020.
13
14 • Within five years of the lien date following the date of acquisition by the CLT, if the
15 property was acquired by the CLT from January 1, 2020, through December 31, 2024.

16
17 The exemption cannot be denied on the basis that the vacant land does not currently have a
18 residential structure in the course of construction.

19
20 Section 214.18(d)(2) requires the CLT to notify the County Assessor if exempt property is not in
21 the course of construction by the applicable date, as specified above. In these circumstances,
22 supplemental and escape assessments are to be issued. Sections 75.11(d)(4) and 532(b)(4) were
23 added to require any supplemental and escape assessments be made within five years of the lien
24 date following the date on which the property becomes subject to taxation.

Example

25
26
27 A CLT purchases real property and a deed is recorded on November 15, 2020. To be
28 exempt, the CLT must begin or complete construction by January 1, 2026. If construction
29 has not at least begun by January 1, 2026, the CLT will be liable for property taxes on the
30 January 1, 2026, lien date as follows:

- 31
32 • 2020-21 fiscal year - partial year December 1, 2020 through June 30, 2021
33 • 2021-22 fiscal year
34 • 2022-23 fiscal year
35 • 2023-24 fiscal year
36 • 2024-25 fiscal year
37 • 2025-26 fiscal year

38
39 An Assessor would have five years from the January 1, 2027, lien date (i.e., the lien date
40 following the January 1, 2026, lien date on which the property became subject to
41 assessment) to issue a supplemental assessment for the portion of the 2020-21 fiscal year

²⁵ Section 214.18, subd. (e)(2)(A).

²⁶ Section 214.18, subd. (e)(2)(B).

PROPOSED DRAFT LTA

1 following the date of purchase. In other words, the Assessor would have to enroll the
2 supplemental assessment by January 1, 2032.

3
4 Additionally, an Assessor would have five years from the January 1, 2027, lien date to
5 issue escape assessments (must be enrolled by January 1, 2032) for the period during which
6 the property was previously exempt. Escape assessments apply to the lien date and can be
7 issued for fiscal years 2021-22, 2022-23, 2023-24, 2024-25, and 2025-26.

8 9 *CLT Welfare Exemption Effective Dates*

10
11 As previously stated, SB 196 became effective on January 1, 2020. The exemption under that
12 section applies to:

- 13
14 • Lien dates January 1, 2020, through January 1, 2024, for property acquired by the CLT
15 before January 1, 2020.²⁷
- 16
17 • The first five lien dates following the date of acquisition by the CLT for property
18 acquired on and after January 1, 2020, and before January 1, 2025, regardless of the
19 repeal of section 214.18.²⁸

20
21 Section 214.18 will sunset on January 1, 2025, by its own provisions.

22 23 *CLT Welfare Exemption Data Collection*

24
25 The BOE must annually collect data from County Assessors to quantify the amount of assessed
26 value exempted and the number of owner-occupied dwelling units or rental units, or both, created
27 by CLTs granted this exemption. CLTs must provide information to County Assessors about the
28 additional housing created.²⁹

29
30
31

²⁷ Section 214.18, subd. (e)(1).

²⁸ Section 214.18, subds. (e)(2)(A) and (B).

²⁹ See Section 6 of SB 196, which provides an uncodified statement of legislative intent to apply the requirements of section 41 to the statutory provisions enacted in SB 196.

**MATRIX
ASSESSMENT AND EXEMPTION OF COMMUNITY LAND TRUST HOUSING
ALTERNATIVE LANGUAGE/COMMENTS**

NO.	PAGE/LINES REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
1	1	4-7	BOE Staff	<p>housing in light of the enactment of both Assembly Bill (<u>AB</u>) 2818 (Chapter 701, Statutes of 2016), Senate Bill (<u>SB</u>) 196 (Chapter 669, Statutes of 2019), <u>and, most recently, SB 1473 (Chapter 371, Statutes of 2020).</u></p> <p>The combined effects of these two <u>three</u> enactments is <u>are</u> to: (1) require County Assessors to recognize</p>	BOE Staff added Senate Bill 1473 information to the LTA.
2	1	7-11	Irvine Community Land Trust	The combined effect of these two enactments is to (1) require County Assessors to recognize restrictions on use imposed by community land trusts, (2) establish a rebuttable presumption that the purchase price of a community land trust home includes both the home and the leased land on which the home is situated, and (3) make community land trust housing <u>property</u> eligible for the welfare exemption <u>prior to commencement of construction</u> under certain conditions.	Accepted.
3	1	14-15	Irvine Community Land Trust	Community land trusts (CLTs) are non-profit organizations that <u>facilitate the development of permanently affordable for-sale and rental housing on land owned by the CLT.</u> With respect to for-sale housing, CLTs make home ownership available at affordable prices to persons of low and moderate income.	Accepted.
4	1	15-17	California Community Land Trust Network	Buyers acquire full ownership of their physical homes <u>the improvements</u> but, lease the underlying land parcels from the CLTs under renewable 99-year ground leases, <u>restricting resale to low and moderate purchasers at affordable prices.</u>	Accepted.

NO.	PAGE/LINES REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
5	1	27-28	Irvine Community Land Trust	Effective September 27, 2016, AB 2818 added paragraph (11) to Revenue and Taxations Code section 402.1(a) to require County Assessors to consider use restrictions on CLT housing.	Accepted. Removed the "s" from Taxation.
6	1	32-35	Irvine Community Land Trust	The CLT, that is a party to the contract, is a nonprofit corporation organized pursuant to Internal Revenue Code section 501(c)(3), maintains a welfare exemption, and is organized for the primary purposes of the creation and maintenance of permanently affordable single- or multi-family residences, including either rentals or for-sale homes.	Accepted.
7	2	3-6	California Community Land Trust Network	The initial sale and future resales must be to persons and families of low or moderate income. Persons and families of low or moderate income may either own the home directly or own the home in the form a share of a limited equity housing cooperative, as defined in Civil Code section 817.	Accepted.
8	2	15-17	Irvine Community Land Trust	Once a CLT sells a home and transfers the leasehold interest in the land to a qualified owner purchaser, both the land and the improvements are reassessed to current market value, because both the sale of the home and the 99-year lease are reassessable changes in ownership.	Accepted.
9	2	15-17	California Community Land Trust Network	Once a CLT sells a home and transfers the leasehold interest in the land to a qualified purchaser, both the land and the improvements are reassessed to current fair market value, because both the sale of the home and the 99-year lease are reassessable changes in ownership.	Accepted.
10	2	27-28	California Community Land Trust Network	The rebuttable presumption may be overcome if the Assessor has evidence to establish that all or a portion of the <u>market</u> value of the leased land is not reflected in the sale or resale price of the home.	Accepted.

NO.	PAGE/LINES REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
11	2	Footnote 6	Irvine Community Land Trust	The term " <u>persons and families of lower or and moderate income households</u> " is defined in section 402.1(a)(11)(C) (iv) by cross-reference to Health and Safety Code section 50093. Additionally, the BOE issues an annual Letter To Assessors to report the applicable household income limits.	Accepted.
12	2	Footnote 11	Irvine Community Land Trust	The term qualified <u>owner purchaser</u> refers to a CLT <u>home purchaser that is from</u> a " <u>person and [or] family of lower and or moderate income household,</u> " as defined in section 402.1(a)(11)(C) (iv) by cross-reference to Health and Safety Code section 50093.	Accepted with minor grammatical change for clarity.
13	3	2-3	Irvine Community Land Trust	Effective as of lien date January 1, 2020, SB 196 added section 214.18, which provides that a CLT <u>is may be</u> eligible to claim the welfare exemption if all of the following conditions are met:	Accepted.
14	3	9	Irvine Community Land Trust	Improvements are or will be available for use and ownership <u>or for rent</u> by qualified persons; and	Accepted.
15	3	11-12	BOE Staff	<u>For owner-occupied homes, a A</u> deed restriction or other instrument serving as an enforceable restriction on the sale or resale value of owner-occupied units <u>or the affordability of rental units</u> is recorded.	BOE Staff added Senate Bill 1473 information to the LTA.
16	3	13	BOE Staff	<u>For rental housing, an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document exists, as described in section 214(g)(2)(A).</u>	BOE Staff added Senate Bill 1473 information to the LTA.
17	3	14-16	California Community Land Trust Network	It should be noted, as with any other welfare exemption claim, an Organizational Clearance Certificate (OCC) must first be issued <u>to the CLT</u> by the State Board of Equalization (BOE) in order for the CLT to be eligible <u>for the exemption.</u>	Accepted.

NO.	PAGE/LINES REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
				In addition to the accepted change above, BOE Staff added "welfare" to "...to be eligible for the <u>welfare</u> exemption."	
18	3	17	BOE Staff	<p><u>Additionally, for rental housing developments, once the property is in the course of construction, the property shall be deemed to qualify for the exemption provided under section 214 and on subsequent lien dates the property shall qualify for exemption pursuant to section 214.</u> ^{FN}</p> <p>^{FN} <u>Section 214.18, subd. (b)(2)</u></p>	BOE Staff added Senate Bill 1473 information to the LTA.
19	3	21	BOE Staff	"Community land trust" has the same meaning as provided in section 402.1(a)(11)(B)(ii) <u>(a)(11)(C)(ii)</u> .	BOE Staff added Senate Bill 1473 information to the LTA.
20	3	Footnote 16	BOE Staff	This reference, found in section 214.18, subdivision (e)(1), is erroneous. The correct reference would be to section 402.1(a)(11)(C)(ii). Staff has proposed legislation that would correct the error.	BOE Staff added Senate Bill 1473 information to the LTA.
21	4	21-22	Irvine Community Land Trust	Welfare Exemption Eligibility for CLT <u>Property Prior to Commencement Housing Under the Course</u> of Construction—Five-Year Window	Accepted.
22	4	24-25	Irvine Community Land Trust	Property <u>meeting the requirements of section 214.18 is under the course of Construction</u> can be eligible for the welfare exemption for the following periods <u>prior to the commencement of the development or rehabilitation of housing on the property:</u>	Accepted.

NO.	PAGE/LINES REFERENCE		SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
23	4	Footnote 21	Irvine Community Land Trust	<p>Additionally, "facilities in the course of construction" must have activity connected with the construction or rehabilitation of a new or existing building or improvement that results in physical changes visible to any person inspecting the site where the building or improvement is located. (Footnote 21)</p> <p>Footnote 21: Section 214.24(b).</p>	Accepted.
24	4	Footnote 24	Irvine Community Land Trust	<p>The first five lien dates following the acquisition of property by the CLT, if the acquisition occurred from January 1, 2020, through December 31, 2024. (Footnote 24)</p> <p>Footnote 24: Section 214.18(e)(2)(A).</p>	Accepted.
25	4	Footnote 25	Irvine Community Land Trust	<p>Property acquired between January 1, 2020 and December 31, 2024, can be exempt for the entire five-year period, even though this period will extend beyond the sunset date of section 214.18. (Footnote 25)</p> <p>Footnote 25: Section 214.18(e)(2)(B).</p>	Accepted.
26	6	1-2	Irvine Community Land Trust	<p>Lien dates January 1, 2020, through January 1, 2024, for property acquired by the CLT before January 1, 2020. <u>[Note: Section 214.18(e)(1) states “lien dates on and after January 1, 2020, and before January 1, 2025. Is January 1, 2024 the last lien date before January 1, 2025?”]</u></p>	Yes.
27			Goldfarb & Lipman LLP	<p>I am reaching out to submit a comment to the BOE’s draft Letter to Assessors, titled “Property Owned by a Community Land Trust” and dated February 21, 2020 (the "LTA"). The LTA addresses SB 196 and the new Revenue and Tax Code section that it creates, Section 214.18. We understand comments were due March 20 but wanted to flag an internal statutory inconsistency that we were hoping the LTA could address. Specifically, Section 214.18 (a)(1)(D) makes it clear that the property exemption applies to rental housing, however Section 214.18(a)(3)(B) contains a drafting error (explained below) that could cause confusion for assessors when reviewing applications for property tax exemption for rental housing. We ask that</p>	Addressed with the added Senate Bill 1473 information to the LTA.

NO.	PAGE/LINES REFERENCE	SOURCE	PROPOSED LANGUAGE/COMMENTS	BOE STAFF POSITION
			<p>the LTA address this ambiguity and clarify that Section 214.18 does apply to rental housing.</p> <p>The inconsistency stems from the definition of “a contract... serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units.” (Section 214.18(a)(3)(A).) Section 214.18(a)(3)(A) requires a recorded instrument requiring such a contract, and subparagraph (B) provides that such a contract “means a contract described in [Section 402.1(a)(11)]”. The problem is that Section 402.1(a)(11) only describes contracts that would apply to <i>owner-occupied</i> housing. For example, one requirement set forth in Section 402.1(a)(11) is that the contract be a ground lease with “the qualified owner of an <i>owner-occupied</i> single-family dwelling or an <i>owner-occupied</i> unit in a multifamily dwelling.” (Section 402.1(a)(11)(A)(i) (emphasis added).)</p> <p>The result is that although Section 214.18 expands the property tax exemption to land that will be used for rental housing, it simultaneously requires a recorded instrument that is defined, by cross-reference to another section, as restricting the land to owner-occupied housing.</p> <p>We plan to reach out to Senator Beall’s office to see if a legislative fix can be made, but in the interim, it would be helpful if the LTA could acknowledge this inconsistency and perhaps provide guidance that, for rental housing, "a contract... serving as an enforceable restriction ... on the affordability of rental units” would be satisfied by one of the instruments described in BOE Rule 140(a)(5) or BOE Rule 140(a)(6), specifically:</p> <ul style="list-style-type: none"> <li data-bbox="688 1252 1728 1429">i. A deed recorded as an encumbrance against title to the property in the official records of the county in which the property is located, which specifies that all or a portion of the property’s usage is restricted to rental to lower income households and identifies the number of units restricted to use as low-income housing; 	

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				ii. An enforceable and verifiable agreement with a government agency that has provided low-income housing tax credits or government financing for the acquisition, rehabilitation, construction, development or operation of a low-income housing property that restricts all or a portion of units restricted for use as low-income housing, species the maximum rent allowed for those units, and is recorded in the county in which the property is located.	