

**COMMENTS ON
EMERGENCY AMENDMENTS TO PROPERTY TAX RULE 462.540**

No.	SOURCE	COMMENT	SBE STAFF RESPONSE
1	Vanessa Chavez, California Association of Realtors	Subparagraph (f) explains that tax relief is available even where there are multiple owners of the original primary residence but does not offer any examples. This subparagraph would also greatly benefit from an example illustrating the practical implementation of these rules, especially an example for subparagraph (f)(1).	This topic may be addressed in a future LTA and/or FAQ where it can be discussed in more detail.
2	Linda Cogburn, Sacramento County	<p>In response to LTA 2022/014, titled, “Interested Parties Process: Amendments to Property Tax Rule 462.520 and 462.540 Through the Emergency Rulemaking Process,” Sacramento County (34) has one suggested revision to Rule 462.540(c)(16). It currently reads:</p> <p>RULE 462.540. CHANGE IN OWNERSHIP – BASE YEAR VALUE TRANSFERS. (c) DEFINITIONS. For purposes of this section: (16) Property is “substantially damaged or destroyed by misfortune or calamity” if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land’s or the improvement’s full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity.</p> <p>The amendment intent appears to be to ensure the Rule reflects R&T Code 170(a)(1). If that is the case, we recommend that Rule 462.540(c)(16) read:</p> <p><u>(16) Property is “substantially damaged or destroyed by misfortune or calamity” if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land’s or the improvement’s full cash value immediately prior to the misfortune or calamity. In the event the major misfortune or calamity occurs in an area or region subsequently proclaimed by the Governor to be in a state of disaster, such damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity.</u></p>	Not accepted. The intent is not to reflection RTC 170. Rather, this language is quoted from RTC 69.5.
3	California Assessors’ Association	<p>(23) "Factored base year value" means the amount determined pursuant to subdivision (f) of section 110.1 of the Revenue and Taxation Code <u>as of the date immediately prior to the date that the original primary residence is sold by the claimant, or in the case where the original primary residence has been substantially damaged or destroyed by misfortune or calamity and the owner does not repair or rebuild on the original primary residence, determined as of the date immediately prior to the misfortune or calamity. If the replacement primary residence is purchased or newly constructed after the transfer of the primary residence, “factored base year value of the primary residence” also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement primary residence was purchased or newly constructed. The base year or years used to compute the “factored base year value of the primary residence” shall be deemed to be the base year or years of any property to which that base year value is transferred.</u></p>	Not accepted. Additions to this definition are quoted from section 69.5.

**COMMENTS ON
EMERGENCY AMENDMENTS TO PROPERTY TAX RULE 462.540
SUBMITTED TO THE OFFICE OF ADMINISTRATIVE LAW DURING THE 5-DAY COMMENT PERIOD**

No.	SOURCE	COMMENT	SBE STAFF RESPONSE
1	Paul Marcos	<p>(1) the text of (h) reads: (h) MULTIUNIT PROPERTY AND MOBILEHOMES. The property tax relief provided by this section shall be available if the claimant's original primary residence or the replacement primary residence, or both, includes, but is not limited to, either of the following:</p> <p>Where the term “either” seems no longer appropriate because there are now 3 subsections ((h)(3) was added to handle ADUs, which is good to see). Presumably that should now read, “...but is not limited to, any of the following:”?</p> <p>(2) Finally, on the topic of ADU/JADU, I think some additional detail and an example would help. Here’s an example of the scenario I might very well be facing, and I’d love to see it clarified:</p> <ol style="list-style-type: none"> 1. Purchase replacement primary residence (e.g. for \$700,000) 2. Begin new construction of ADU on replacement primary dwelling, in preparation for new construction of primary residence. 3. After ADU is completed, but before primary residence new construction is completed, I would move to the ADU (e.g. ADU value is \$100,000) 4. Sell original primary residence (e.g. original factored base year value is \$300,000) for \$650,000. 5. File base value transfer transfer claim. <p>Because the replacement primary residence value + ADU value (\$800,000) is greater than the value of the original primary residence (\$650,000), the new base year value of the replacement primary residence would be \$450,000 (\$300,000 + \$150,000). So far, so good, I think. Or would the base value transfer not be allowed at step 5 above? Or would the base value transfer only be allowed after ALL new construction is completed?</p> <p>If step 5 is allowed, then the confusing part comes in when the new construction on the replacement primary residence is completed. Is the base value reassessed with just the difference in value of the primary residence new construction over the purchase price of the replacement primary residence?</p>	<p>Accepted.</p> <p>This topic may be addressed in a future LTA and/or FAQ where it can be discussed in more detail.</p>