

CALIFORNIA LEGISLATURE

SENATE SELECT COMMITTEE ON MOBILEHOMES

SENATOR WILLIAM A. CRAVEN
CHAIRMAN

TRANSCRIPT OF HEARING ON

PROPERTY TAX REASSESSMENT EXCLUSION OF RESIDENT-OWNED MOBILE PARKS



STATE CAPITOL
SACRAMENTO, CALIFORNIA

DECEMBER 8, 1992

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CHAIRMAN
RUBEN S. AYALA
RALPH C. DILLS
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California Legislature

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DECEMBER 8, 1992 HEARING

PROPERTY TAX REASSESSMENT EXCLUSION OF RESIDENT-OWNED MOBILE PARKS

- BACKGROUND PAPER -

PURPOSE

The purpose of the December 8th hearing is to review the current exclusion on the property tax reassessment of mobilehome parks converted to resident ownership, the proposed extension of the exclusion's 1994 sunset, and alternatives for keeping the property tax consequences of converting such parks affordable for lower-income mobilehome owner/residents.

THE CURRENT EXCLUSION

Article XIII-A of the California Constitution (Proposition 13, enacted by voters in 1978) imposes various limits on local property taxes, including a freeze on the assessment of property purchased prior to 1978. A "change in ownership" (i.e. sale of property), however, triggers a reassessment of the property, by the county assessor, at "full cash value." Various sections of the Revenue & Taxation Code, enacted by the Legislature, specify certain exclusions from this "change in ownership" provision. One of these, Section 62.1, excludes rental mobilehome parks, which are converted to resident-ownership by park tenants, from reassessment upon "change in ownership", if the conversion takes place before 1/1/94.

HISTORY OF THE CURRENT EXCLUSION

SB-2240 (Seymour) of 1984, among other provisions, enacted Section 62.1 of the Revenue and Taxation Code, establishing the exclusion on the reassessment of mobile parks converted to resident-ownership. Unlike a tax exemption, the exclusion is not a tax forgiveness, but a one-time freeze of the tax assessment upon sale of the park to the tenants. The exclusion does not apply to subsequent transfer of spaces or interests by residents after the initial conversion, which are subject to full reassessment at the time of those resales.

Legislative intent of SB-2240 was to make resident buy-outs of mobile-

home parks more affordable for lower-income tenants. Otherwise, large property tax increases triggered by a reassessment may drive the cost of purchasing the park out of the tenants' reach. These provisions were originally sunsetted on January 1, 1989.

When Section 62.1 became effective in 1985, controversy centered on form over substance, as some county assessors were reluctant to recognize certain types of park conversions for this purpose. As such, in 1986, SB-1768 (Craven) was introduced as a clarifying amendment to 62.1, specifying that the provision applied to a park where rental spaces were sold to individual residents prior to the time the entity (usually a homeowners association), established to operate and maintain the park, was created, as long as it was created within one year of the purchase of the first space in the park.

In 1987, SB-298 (Craven), was passed to address the fact that some assessors had interpreted Section 62.1 narrowly, by claiming that it only applied to non-profit corporations or stock co-ops. The new bill specified that 62.1 applied to all bona fide transfers of rental parks to resident-ownership, not limited to non-profit corporations. The bill also extended the 1989 sunset date to a new date of January 1, 1994.

In 1988, two pieces of legislation dealt with this section: SB-1885 (Craven) established criteria for non-profit corporations to qualify for the reassessment freeze as well as the reassessment of individual interests or stock in a non-profit, resident-owned park corporation, which is resold after the initial conversion; another bill, SB-2104 (Ellis), established Section 62.2 of the Revenue & Taxation Code, which permitted an intermediary to purchase a park and then resell it to the residents within a nine-month period following the initial transfer of ownership, and still qualify the park for the 62.1 exclusion.

In 1991, SB-674 (Craven) was enacted to extend the 9-month period mentioned above to 1 year and specified that local agencies be permitted to act as purchasing intermediaries of parks converted to resident-ownership for purposes of the tax reassessment exclusion.

In 1992, SB-1426 (Rosenthal) again amended this section to provide that an intermediary has 18 months, rather than one year, to sell the park to the residents. The bill, an urgency measure, was signed 9/29/92.

SENATE BILL 1312

SB-1312 (Craven) was also introduced in 1992 to extend the 1994 sunset on the "change in ownership" exclusion to January 1, 2000, as a means of continuing to encourage the conversion of rental parks to resident-ownership. The bill was heard in the Senate Revenue and Taxation Committee on March 4, 1992. The Department of Finance indicated concerns about a potential loss of property tax revenue to local governments, and other critics questioned the constitutional basis for the bill. A representative of the Board of Equalization suggested to the committee that consideration of SB-1312 could be deferred until after the voters had decided the status of Proposition 154 at the June primary.

(Proposition 154, SCA-37 (Seymour) 1990, was a proposed constitutional amendment authorizing the Legislature to provide for postponement of property tax reassessment of residential property on acquisition by low-income tenants, including the conversion of mobilehome parks to resident-ownership). Although the concept of property tax postponement under Proposition 154 and the "change in ownership" exclusion under Section 62.1 are different, SB-1312 was held in abeyance by the Revenue & Taxation Committee. Proposition 154 was defeated at the June election.

LEGISLATIVE COUNSEL'S OPINION

Subsequent to the March hearing on SB-1312, a May, 1992 Legislative Counsel's Opinion (# 6691), requested by Senator Quentin Kopp, was released. The Opinion contends that the exclusion of mobilehome parks converted to resident-ownership from "change in ownership" is not a valid interpretation of that term as it is used in Article XIII-A of the California Constitution - Proposition 13 (see ATTACHMENT 1).

DISCUSSION POINTS

Local Government Cost:

Critics of the exclusion contend that its extension beyond 1993 would create a potential loss of what would otherwise be additional needed property tax revenue for local governments and school districts.

There is no accurate way of determining the future impact of extending the Section 62.1 exclusion beyond 1993. The Senate Revenue and Taxation analysis of SB-1312 (3/4/92) suggested that the Board of Equalization might survey county assessors in order to ascertain how much local governments are losing in property tax revenue due to the Section 62.1 exclusion. Such a survey has not been undertaken to date.

However, information from the Department of Housing (HCD) indicates that, since 1986, some 40 parks (an average of 6 per year) have been converted to resident-ownership using state loans under HCD's Mobilehome Park Resident Ownership Program (MPROP), which makes low-income loans to residents to buy parks. There is no firm data, but estimates are that, in addition to the 40 parks converted with MPROP funds, perhaps as many as another 30 parks have been converted using exclusively private loan funds since the effective date of the Section 62.1 exclusion in 1985.

The chart (see ATTACHMENT 2), provided by the Department of Housing's MPROP program staff, at the request of this Committee, gives us some sample information in this regard. Fifteen parks funded by MPROP were surveyed. The difference in property taxes without the Section 62.1 provision is estimated, based upon 1% of the sales price of the park. The range is from a low of \$3,316 to a high of \$89,281. The extent of the tax difference in any one park appears to be dependent upon how recently the park previously changed ownership. Parks sold within the past 4 or 5 years, prior to conversion, do not reflect the large increased values of those which remained in the same hands for 20 years.

The total "loss" of property taxes which would otherwise have been

garnered by local governments from these 15 sample parks is estimated at \$372,383. The average "loss" in the sample parks is \$24,826 per park. Extrapolating the average cost per park to the 70 parks estimated to have been converted since 1985 under Section 62.1, we have roughly a "loss" of \$1.73 million in revenue, which local governments might have otherwise added to their coffers if converted parks had been assessed at full value. Of course, this figure has to be reconciled with the fact that, without the favorable reassessment exclusion, an unknown number of the 70 mobilehome parks may not have been converted to resident-ownership in the first place, and added property tax revenues would not have been triggered in those cases anyway.

A major factor in determining how many parks will be converted to resident-ownership in the future is the availability of loan financing for such projects. Over the past year and a half, private lenders have been less willing to fund park conversions than in the past. As a result, conversion consultant specialists have tried to obtain more public financing for these projects. Although a few cities have been willing to use bond funds to help the conversion of rental parks to resident-ownership, efforts to increase state loan funding have failed.

Currently, the MPROP program is financed by \$2 1/2 million a year from a mobilehome license fee surtax of \$5 per unit. Although MPROP has funded about 6 conversions per year, in 1991, 7 out of 13 parks with MPROP applications were turned down for lack of funding and were not able to convert to resident-ownership. SB-501 (Craven), which would have authorized the issuance of \$40 million in revenue bonds for MPROP loans, passed the Legislature but was vetoed by the Governor in September. Conversion consultants have told this committee that, without the additional MPROP funding, an estimated 12 to 20 parks may lose the opportunity to convert to resident-ownership in 1992-93.

On the other hand, AB-3179 (Hauser) was passed and signed into law to provide that mobilehome owners, located in parks converted to resident-ownership, may convert their homes from the state's vehicle license fee system to local property taxation and declare the home a fixture to the underlying real property without need of a permanent foundation. This may enable purchasers to obtain more favorable private financing because lot and home loan combinations are more saleable on the secondary market. Besides encouraging conversion loans, to the extent that homes are converted to local property taxes, there will be some offset to any loss of potential new property tax revenue to local governments under 62.1.

Hence, trying to determine the future "costs" of a Section 62.1 extension is at best complicated by the availability of private and public funding, how recently the park changed owners prior to conversion, & the conversion of mobilehomes to property taxes under AB-3179, among other factors.

Affordable Housing Policy:

Mobilehome homeowners, park conversion consultants and other proponents of Section 62.1 and its extension argue that most residents of mobilehome parks are lower-income senior citizens, who, when they want to buy their park, do so in order to preserve their affordable housing lifestyle.

Often future alternatives may either be higher rents or even closure of the park and conversion to other uses, such as a shopping center or high-rise office building, which means displacement of the mobilehome residents. Low and low-middle income residents already have a hard time qualifying for financing to buy their park. On top of financing, conversion costs usually include infrastructure repair, maintenance, and insurance. Without the "change in ownership" exclusion, the imposition of stepped-up property tax costs upon conversion of the park - in some cases, even tenfold - may be the straw that breaks the proverbial camel's back, by driving the cost of a resident buy-out beyond the realm of possibility for most mobilehome park residents.

ATTACHMENT 2, while indicating what potential "lost" revenue may cost local government, also serves the purpose of showing how an increase without Section 62.1 may effect homeowners. Tax affordability for homeowners seems to depend not only on how recently the park changed owners prior to conversion, but on the number of spaces in a given park. A \$25,000 tax increase is more easily afforded by individuals in a 200 unit park than in one with only 50 spaces. A \$50 per year increase in a low-income individual's tax bill may be affordable. Those facing a \$150 to \$300 per year additional tax cost, however, may find the increase a deterrent to purchase in the first place.

Hence, mobilehome proponents argue that besides the statistical "loss" of property tax revenue to local government by virtue of 62.1, there should also be other considerations. These may include the cost to the community of future displaced mobilehome owners, who are not able to convert their park to resident-ownership, and who may become dependent upon alternative public housing, and the ability of local governments, with a loss of mobilehomes as low cost housing, to maintain their required affordable housing plans.

Validity of the Statutory Exclusion:

The May, 1992 Legislative Counsel's Opinion, contends that Section 62.1 is unconstitutional (see ATTACHMENT 1). Ultimately, however, the constitutionality of a statute must be determined by the courts.

The California Constitution and statutes provide for various property tax exemptions, as distinguished from other types of favorable property tax treatment. Property tax exemptions recognized by the constitution include educational property, church property, state, local and other government property, cemetery property, the \$7,000 homeowners' exemption, the veterans' exemption, historical property and open space land as defined by the Legislature, and church parking lots, among others. Other properties, including non-profit golf courses of more than 10 acres, while subject to property taxes, receive preferential assessment.

The Legislature has adopted various exemptions by statute, including the so-called welfare provisions exempting property used for religious, hospital, scientific or charitable purposes. These run the gambit from non-commercial educational radio or TV broadcast stations to possessory interests in publicly owned land used for horticultural purposes and property used to conduct charitable bingo games (see ATTACHMENT 3).

With the adoption of Proposition 13 tax limits in 1978, reassessment became the key to increased taxes, based upon whether property is "newly constructed" or there has been a "change in ownership." Article XIII-A provides in part that the 1% tax limit shall be applied to "the county assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value' or, thereafter, the appraised value of real property when purchased, newly constructed, or a 'change in ownership' has occurred after the 1975 assessment." The full cash value "base" may also reflect a 2% annual inflationary adjustment (see ATTACHMENT 4).

Not to be confused with previously mentioned property tax exemptions, Article XIII-A also provides that "change in ownership" does not include:

- (1) replacement housing acquired as the result of eminent domain or inverse condemnation;
- (2) transfers of real property between spouses;
- (3) transfer of a principal residence between parents and their children up to \$1 million, and other parent-child real property transfers defined by the Legislature.

As detailed in ATTACHMENT 5, beginning with Revenue and Taxation Code Section 62, the Legislature has provided by statute, not only for the above-mentioned constitutionally recognized exclusions from "change in ownership," but more than a dozen additional statutory exclusions. In addition to mobilehome parks, some of the other exclusions include:

- transfer of a lessor's interest in real property subject to a lease of more than 35 years;
- purchase or transfer of ownership interests in legal entities, such as partnerships or corporate stock;
- partial or individual transfers in cooperatives, condominiums, commercial or industrial parks or subdivisions;
- transfer of stock or membership in housing cooperatives financed through federal mortgage guarantee loan programs or the California Housing Finance Agency.

Although none of these exclusions is subject to a sunset provision, and many appear to have been enacted on the basis of whether a full interest in the property has been transferred, the lack of a constitutional base may bring some of these provisions into question as well.

THE PROBLEM

The basic problem facing the Legislature is thus how to reconcile the public policy of encouraging the preservation of affordable housing through tax policy, such as Section 62.1 (change in ownership exclusion for resident-owned parks), after 1993, with the needs of local governments to raise additional tax revenue and constitutional questions.

* * *

NOTE: Referenced items in this background paper are included in the appendix in the back.

T R A N S C R I P T O F T E S T I M O N Y

DECEMBER 8, 1993

HEARING OF THE SENATE SELECT COMMITTEE ON MOBILEHOMES
PROPERTY TAX REASSESSMENT EXCLUSIONS OF RESIDENT-OWNED MOBILE PARKS
ROOM 3191, STATE CAPITOL, SACRAMENTO
DECEMBER 8, 1992

SENATOR CRAVEN: I'm Bill Craven, the Chairman of the Committee, and I want to, of course, welcome you, as I usually do, always do, to the hearing. We're very, very happy to hold these hearings, not only because we're interested in the activity of people in mobilehomes, but because we are interested in the comments that you bring us each time. That's very, very important to us.

Let me introduce the gentleman on my left, Wadie Deddeh, Senator from San Diego County, and he will be with us today, sitting with the Committee, and I think, perhaps, during the course of the hearing today, we'll probably be joined by some other Senators. To my left is the Secretary of the Committee, Sally Ridgeway, and to my right, the Consultant, John Tennyson. The gentleman who just walked in is the august Senator, Ralph Dills, from Los Angeles County, but that's changing, I think, with reapportionment, isn't it, Ralph?

SENATOR DILLS: El Segundo, probably.

SENATOR CRAVEN: El Segundo? Well, no matter where he goes, his reputation will proceed him and serve him well...

SENATOR DILLS: I don't know if that will be good...

SENATOR CRAVEN: No, no... you've served the people well these many years.

Have you all picked up the background paper which is on the table as you come into the room? It has a lot of the details and history on what we are going to discuss here today.

As many of you know, over the years, this Committee has been interested in the issue of converting rental mobilehome parks to resident-ownership as a means of, not only preserving affordable housing but, resolving other difficult problems, such as displacement of homeowners, escalating rents, and various park owner/homeowner disputes.

SB-2240 (Seymour) of 1984 was the landmark legislation in this regard, by providing, for the first time, a program within the State Department of Housing, to lend funds to lower-income residents who are trying to convert their park. As part of this omnibus bill, SB-2240 enacted Section 62.1 of the Revenue and Taxation Code, establishing the exclusion on the reassessment of mobile parks converted to resident-ownership.

I'm not going to detail what you can already read in the background paper other than to say that - under the Proposition 13 freeze - the key to increasing property tax revenues at the local level is either "new construction" or "change in ownership" of existing properties.

That's when property can be reassessed and taxes raised. Of course, the legislative intent of SB-2240 was to make resident buy-outs of mobilehome parks more affordable for lower-income residents, at the front end, by preventing large property tax increases triggered by the sale of the park to residents, otherwise, many residents could not have afforded to purchase their parks in the first place.

The problem was that the Legislature wasn't sure about SB-2240 at the time, the whole concept of conversion of mobile parks being somewhat novel in 1984. Therefore, the Legislature put a 1989 sunset on all its various pieces and parts, including the loan program as well as the tax exclusion. But, the loan program and tax exclusion did work to help people buy their parks and preserve affordable housing and the sunset was later extended.

But, now, it's 8 years later, and the sunset is almost up again. I carried legislation, SB-1312, this past session to extend the current 1994 sunset on the original 2240 tax exclusion to the year 2,000. Unfortunately, as the background paper details, because of a number of factors, including opposition from the Department of Finance, alleged constitutional questions, and confusion over a pending June ballot proposition, the Revenue and Taxation Committee turned me down.

I realize, quite frankly, that there is opposition to the concept of continuing the reassessment exclusion for mobilehome parks converted to resident-ownership. In these difficult budgetary times, there is more interest in garnering additional tax revenue than in promoting or maintaining needed affordable housing, eventhough, in my opinion, this shortsighted approach will end up costing the state - or more probably local governments - more when they have to deal with the folks who don't have anywhere to live.

Therefore, the purpose of today's hearing is to review the current exclusion on the property tax reassessment of mobilehome parks converted to resident-ownership, the possible renewal of the exclusion's sunset, and alternatives for keeping the tax consequences of converting such parks affordable for lower-income mobilehome residents.

So, let's get on now with the agenda. I understand we have had some drop off and some join us, so we will have to play it by ear, as we go. We hope that all of you recognize the fact that we don't want to go into long tirades on our presentations. Try to keep it as precise and as tight as you can, and, if we can say everybody's going to get 10 minutes, fine, but we want to try to get through it with some degree of rapidity and very little repetition.

When you come forward, please state your name for the record and who you represent, if you are from an organization or association. Please speak into the microphone, as the hearing is being recorded for later transcription. I also should tell you that you're being televised by cable, as well as being recorded, so please keep your private conversations at a minimum or, perhaps, best of all, you might take them outside. But remember to look at the camera and smile, so you'll look very good when you see yourself on TV and how well you did.

So, let's begin now, if we may. Let's see, we were joined by Senator Presley, who is the prevailing Senator in the County of Riverside and has been for years, and probably will continue to be for years, and it's a delight to have him with us. Senator Presley and the other Senators have quite a few mobilehomes in their respective districts, and they have taken an interest in joining with us in the Committee over a period of time, and we're very delighted to have them. We will begin with Sue Loftin, Attorney at Law, Beverly Hills. Welcome.

SUE LOFTIN: Thank you Honorable Chairman and Committee members. I appreciate the opportunity to be here this afternoon. My name is Sue Loftin. Our offices are located in Beverly Hills. I am associated also with a company called Pacific Park Associates, which the sole purpose of that particular company is to assist residents in various methods in obtaining ownership of their parks. In reviewing the Legislative Opinion letter, included in the background paper material, I have divided my presentation out into two parts.

The first is the practical aspect and the concern that government currently has with regard to funding, and, anytime I view that kind of issue, I look at it as though it's a business issue. You have a deficit and a need for funding; you also have programs for which that funding is utilized. There have been approximately 70 mobilehome park conversions in the state. I have been involved in and completed 12 of those, which represents 18 percent. Taking the estimated \$1.73 million of lost annual revenue, that represents a little over \$300,000 associated with the parks that I have done, which represents 2200 spaces, and that translates to \$138 per year of lost revenue per space. The average age of the residents that I have worked with is 74-1/2 years old. The majority of them are low and moderate income residents. In looking at this from the business perspective, \$138 per unit certainly would not represent even a sufficient amount to defer a rental issue to preserve that affordable housing. As a result, the fiscal impact of this particular piece of legislation, I think, becomes overshadowed by the concept that there's money out there that somebody might be able to obtain for all purposes, but, in terms of looking at the affordable housing preservation, the dollar amount is miniscule that the various jurisdictions are not receiving in tax money, and, for the tax money that they're losing, they could not replace, nor even assist, those residents in being able to retain their homes.

The second issue that was presented has to do with the constitutionality of this particular provision. First of all, in terms of the Opinion that was presented, I take exception with the concepts that are presented in the interpretation. Ownership, as stated in the Gottschalk case, the right of possession and use, to the exclusion of others as distinguished from technical aspects of title. They further commented that this basic concept of ownership is consistent with the purposes, goals, and design of Article 13, which is primarily a tax relief measure.

The Opinion analyzes the mobilehome park situation through an analysis in comparison with the 35-year leasehold exemption, and, I think, what

it doesn't take into consideration is the fact that there is a statutory lease that's been provided in the Mobilehome Residency Law, Civil Code Sec. 798 and following. That statutory scheme provides that the residents, once they take possession of their space, retain that space until certain very specified conditions subsequent occur - the same types of conditions subsequent as you find in a 35-year lease or longer. If you don't pay rent, as a resident, you can be evicted; if you don't pay rent on a long-term lease, you can be evicted or you forfeit the lease; if you destroy the property, you can be evicted in either instance. So, to say that the 35-year lease exemption is constitutional because it is, in effect, a transfer of the beneficial ownership, and, because there is not a formal written lease, in the same manner, consequently, the residents, who have had a transfer of the beneficial ownership of the occupancy rights, are not entitled to the exemption, I think, is a fallacy in not analyzing the statutory lease scheme that's been provided, that is analogous to the private contractual lease, that is entered into by a landowner and that person who leases an improvement.

In summary, the residents of a mobilehome park have the beneficial ownership of the property, to the exclusion of the property owner that is memorialized in Civil Code 798 and following, which set forth the terms and conditions of that leasehold estate. Consequently, there is one owner of the beneficial interest and one owner of the land, and a similar analysis that applies to the 35-year lease should likewise apply to the rental of the mobilehome park. Consequently, the exclusion or the exemption for the residents, as they acquire the property, should be deemed to be constitutional. And, just in summary - and I'm not going to go through all the other sections - Revenue & Taxation Code Sec. 64 similarly goes through change of ownership for a merger and so on and, if you read through that section, it follows very similarly to ownership of stock and ownership of beneficial interest and how those exclusions... one has been deemed constitutional and the argument is that the beneficial ownership of the resident is somehow different.

So, I submit to this Committee that it is constitutional as drafted and would certainly encourage - for the purposes of providing continuing affordable housing in the mobilehome parks - your support of Senator Craven's bill. Thank you very much.

SENATOR CRAVEN: Very good, thank you very much, Ms. Loftin. However, before you get away, you mentioned something that my colleagues and myself involve ourselves in quite frequently. Senator Dills is an attorney-at-law, the rest of us are laymen, if you will.

Incidentally, that is Senator Ruben Ayala, who has just joined us, on my extreme right. He represents San Bernardino County and it's very nice to have him with us today.

But, we talk about constitutionality, and, sometimes, I think, those of us who are lay persons feel that constitutionality really rests on the last fellow that made the decision, and I have come in time to take these opinions by Counsel - 16 pages - and read the last paragraph,

because that's where all the meat is. That may be a rather amateurish way of doing it but, invariably, it's proven quite effective for me. But because you mentioned constitutionality several times, during the course of your presentation - which I thought was very well founded, it occurred to me that there may be, in the audience today, some of the Departmental people who may have served in objection to what we had presumed to be constitutional heretofore. Do we have anybody from Housing or BOE with us today who would care to comment? Here's a lady who would be happy to do so.

MARGARET SHEDD: Thank you Mr. Chairman. My name is Margaret Shedd with the Board of Equalization. We did mention in our analysis of the original bill, SB-2240, that there may have been a constitutional question. We did, also, in your bill, SB-1312 - say that there is a constitutional issue. That is because the constitution says that property shall be reappraised when there is a change of ownership. Change of ownership was not defined in the constitution - excluded is inter-spousal, parent-child and eminent domain transfers. Our point was merely to raise that as a question. Unless someone takes it to court and the court says, "No, it's unconstitutional," we can't, under Article 3, Section 3.5, deem a statute to be unconstitutional. We only raised it as an issue.

SENATOR CRAVEN: Well, like your experience, in any governmental body, you can never draw a law or an ordinance that covers every particular incident that may occur from that time on. I mean, it's just not possible. Most of us have served in local government, and we've all experienced it, time and time again. So when we had the thought - or John Seymour, who was the originator, had the thought - of doing what has been done, it was not regarded and anticipated, and it didn't seem to wave a red flag on the part of the Departments on constitutionality. We just took it for granted that why not? This is different than what is envisioned in the law. At least, that's the way I interpret it. So, we have had a tendency, as John and I were speaking on the subject a little before the meeting today - so much of what we have, kind of, taken for granted, over a period of years, may not stand a constitutional test, and we have to take the steps to shore up the constitutionality... and, I feel that is the question. But, I appreciate what you said. In other words, you're not really serving as an antagonist, nor are you a protagonist. But, what you're trying to do is to point out something to us and that someone else is going to have to make that decision. We appreciate it. Thank you very much.

Next, is Jerry Fisher, President of the Mitchell Management Company in San Diego - Jerry is not here. So, Inge Swaggert is here. She's Vice President of GSMOL, Resident-Owned Parks, San Carlos. Good afternoon.

INGE SWAGGERT: Thank you, Senator, for this opportunity to address you. My name is Inge Swaggert. I am the Vice President for Resident-Owned Parks at the Golden State Mobilehome Owners League, a statewide mobilehome owners organization.

I really don't understand why we're even here, because, in 1987, SB-298, which you also authored, extended the 1989 sunset date to the

new date which is now 1994, and there was no opposition of any kind raised at that time that I can remember. The background paper states the case eloquently, but I would like to add just a few points and recommendation.

One, it has been the practice of most jurisdictions, that have mobilehome communities, to include these communities in their inventory of affordable dwellings in their housing element of their general plan. The extension of these existing provisions, 62.1, would enable these jurisdictions to continue this practice.

Two, this provision applies only to rental mobilehome communities that have been in operation five years or more. So there's an open item there where they can garner some extra funding. There are many communities out there that are not even for sale and probably never will be. The figures there that they're looking at, at the many communities of people that there are, may be better ascertained, you know, what percentages sold in this period of time and figure out how many more possible sales there might be and what they might lose. We're losing sight of the overall picture of affordable housing. The homeowners, by their volunteer investment in their community and, now, the land on which their home is sited, would be preserving affordability and, further, the housing element of their jurisdictions. I have attached a copy, by names, to support that and a copy of a housing element out of the county.

All their lives, the mobilehome owners have paid federal income tax and, most likely, state income tax - maybe even city and county income tax. If they owned the property prior to retiring and moving into a mobilehome community, they paid a wagonload of dollars to city, county and state governments over the years. Now that they only own their homes and pay a space occupancy fee for the land on which their home is sited, they're paying property tax plus the 2 percent inflation factor, improvement bonds, sewer maintenance, weed abatement, special surcharges, and all the other assessments that local government can dream up. Actually, they graciously include these government imposed charges in their monthly space occupancy fee to the park owner, who, then, pays the money over to the government agency. When the taxes increase, so does the space occupancy fee. Now, add to this the county and city sales taxes that they've paid on their home when it was purchased, when it was a... in-lieu tax, over a lifetime, and they're now contributing to the community in which they live. Every time they purchase something from the grocery store or any of the other stores or goods or service providers in the community, the cost of the manufacturers' or providers' taxes are passed along as part of the purchase price. All the various taxes that are in that purchase price - I'm not going to list them all - but there's, at least, twenty-some taxes that go into the price of the product.

This is a sizable infusion of tax funds to the economy of whatever jurisdiction the mobilehome is sited in and cannot be overlooked. Naturally, this isn't their only contribution to the community. The most successful, energetic senior centers all have one thing in common - a large number of volunteers. They don't just sit back and wait for

things to happen or for government to do something for them, at these centers - they get out and make things happen. Their enthusiasm is catching. It spreads to local officials, to local citizens and businesses, bringing everyone into the act. They also get involved in local politics and let their voices and needs be known. The mobilehome record is usually, from our survey, 93 to 95 percent voter turnout. Most mobilehome owners have a deep sense of self respect, pride, independence, and want to retain their dignity - not be dependent on government handouts and charity. I've attached a list of all the government services that are available to senior citizens which number about 40 or so, I believe.

On the HCD analysis attached to the background paper, the number of homes total in those 15 parks, is 1,779. What would the cost of producing new replacement units of comparable size and rent be to the community? How would the unavailability of land and its cost be addressed? What is the cost to the local jurisdiction of just some of the services listed on Attachment 2, which is senior services. With all the costs, I don't think any of the local jurisdictions that may think they can garner additional money from sunseting this provision have ever figured that out, ever.

Therefore, I recommend surveys, by assessors, to ascertain the extent of the alleged potential loss by the jurisdiction; also, total cost of all services that would be needed by those that would be economically evicted, due to ever escalating space occupancy fees; review by the assessor, listing all exemptions, particularly the statutory exclusions that are not subject to sunset provisions, and all others that are listed on Attachment 5 of the background paper; calculate alleged potential gain that that particular assessor would have, by sunseting this provision; protect mobilehome owners and ensure continuing affordability to low and moderate income households by developing a program that includes, but is not limited to, the following components: an estimate of the cost of maintaining the mobilehomes as affordable; an estimate of the total costs, including land, of producing new replacement units of comparable size and location; an inventory of all government financing and subsidy programs that could be used to help maintain affordability; an inventory of all public and private nonprofit organizations that have the legal and managerial capacity to acquire and manage affordable mobilehome communities; regulate the closure of mobilehome parks, or cessation of use of the land as mobilehome parks, by ensuring that fair and reasonable measures are provided to mitigate the adverse impact on the ability of the mobilehome owner to find alternative housing, without losing the equity in their existing home.

On behalf of our members, I respectfully request that the Committee vigorously pursue the extension of the existing tax provision, with clarifying amendments if necessary. GSMOL is very grateful to Senator Craven, the Committee, and their hardworking staff for all their efforts on behalf of our membership. They are proud people. All they want is a decent place to live that they can afford. They want economic independence, not economic eviction. Thank you.

SENATOR CRAVEN: Okay, Inge, thank you very much. Are there any members or any of the Senators who have any questions of the witnesses? Let me ask Sue, in your experience, did you run into any degree of antagonism from governmental bodies relative to this situation?

SUE LOFTIN: The only difficulties that I've experienced are in the County of San Luis Obispo with the County Assessor there, and, after a clarification of the exemption and what constituted an association, that was taken care of. Other than that, I have never had - and that was a legal issue - other than that one legal issue, I've never had a difficulty with local jurisdictions or counties or assessors.

SENATOR CRAVEN: Well, you know, we have run into that on other situations involving mobilehome activity from the assessors, and in times past, John Tennyson has gone out and talked to the people involved and, invariably, they change their attitude, because they've either not understood it or have a misinterpretation of what we're trying to do. But I still think that there are many people out there who may fall into that category - that are not really completely aware of what the situation is.

SUE LOFTIN: Yes. The issue I've found that comes up most frequently, when I initially talk to governmental bodies, is they think it is a tax forgiveness forever, rather than a non-reappraisal for existing mobilehome park residents, and, when they sell, then there's a reappraisal, and so it's been primarily the mechanism of how the exemption operates.

CRAVEN: But do you think, to pick up on that point, as a point of clarification, would help in anything that we would draft... in other words, to say that this is not, you know, ad infinitum?

SUE LOFTIN: Yes, that would be helpful.

SENATOR CRAVEN: Thank you. Next is Gerald Gibbs. Yes, Senator Dills?

SENATOR DILLS: Assuming that we have, as we do have under current law - as sort of a blanket or... (inaudible) is there the same increase on the mobilehome assessment as there would be were it a home under Prop 13? In other words, we could go 1 percent? Is that possible with mobilehomes? I may not be stating it very well...

JOHN TENNYSON: Senator, I'm not sure I understand the question. Is it the one percent tax rate that you're asking about?

SENATOR DILLS: Yes, that's the question.

JOHN TENNYSON: The issue here is the reassessment of the value of the property against... what the one percent is applied...

SENATOR DILLS: At the present time, there would be no possibility of increasing the assessment any more than the percentage that you would have were it a home under Prop 13?

JOHN TENNYSON: I don't believe so, no.

SENATOR CRAVEN: Basically, John tell me, now, if I'm wrong. What we're trying to do is tie down a figure and not keep the meter running, so we can make an estimation of what it's going to cost and what the assessed value on it is. So all the people who are participants in the purchase know specifically what it's going to cost them, and, once that figure has been arrived at, once the transfer has been consummated, then they're eligible to be reassessed on a regular reassessment schedule, are they not?

JOHN TENNYSON: Well, under this provision - 62.1 - the concept is to freeze the assessment so that, particularly, the lower income people can more easily afford to purchase the park. It's not the loose cannon, if you will, of this financial package. Once the park has been converted and individuals resell their interests, because of death or what have you, at a later time, then those individual interests, whether it be in a nonprofit corporation, a share, or whether it's an actual space, as in a condominium or subdivision, are subject to reassessment.

SENATOR CRAVEN: That's the point I'm trying to... Senator Deddeh?

SENATOR DEDDEH: Mr. Chairman, I think Margaret was correct, from the Board of Equalization, that you ... Prop 13 will follow you, almost, to death unless, by a constitutional edict, you amend the language to say that there are exemptions because assessors were the cause of Proposition 13. We would not have had Prop 13 had we not had assessors in the state who went wild and crazy, some 15 or 16 years ago. You can quote me on that. But, once Prop 13 is in place, and you have a property - however you transfer it, unless it's exempt constitutionally - husband, wife, children, father - whatever the exemptions are - Prop 13 and the assessor are going to haunt you to death, regardless of what we pass here. Am I correct that you have to have a constitutional amendment to protect what Senator Craven is trying to do, eventually?

MARGARET SHEDD: Well, it would certainly make it a lot cleaner. There are, that have been enacted since '78, when Prop 13 was put in, statutory exclusions to change of ownership that are equally questionable but...

SENATOR DEDDEH: Nobody's challenged it?

MARGARET SHEDD: ...nobody's challenged it.

JOHN TENNYSON: Because they don't have the sunset, basically.

SENATOR CRAVEN: Thank you, Margaret. Well, Jerry, good to see you again.

GERALD GIBBS: Mr. Chairman, Members of the Committee. Gerald Gibbs, 110 East Avenida Palizada, San Clemente... (inaudible talking from the panel)

SENATOR PRESLEY: We're debating who caused Prop 13. Deddeh says it's assessors and assessors merely assess the value of the property, which, at that time, was rising very fast, and I think they're doing their jobs. The problem was people like Ayala, who was on a board of supervisors (laughter), and the city councilmen didn't want to adjust their tax rates accordingly. They just reaped the big benefit from it. That's what caused Proposition 13.

SENATOR CRAVEN: Well, I'll tell you, Bob, as I sat here and somebody mentioned 13, which is, you know - it's a feat accomplished now. And how many of us here voted for 13? I ran for election in that year, and I voted no, and my people said, "They'll kill you quicker than bullets!" Well, they were wrong, thank God, but I don't know that Wadie supported it. Did you?

SENATOR PRESLEY: I opposed it; it was the number one issue against me.

SENATOR CRAVEN: Yeah, it was the number one issue against me. Ruben, what did you do?

SENATOR AYALA: I didn't support it but I think Presley did (laughter) but I do now - I do now though - I do now.

SENATOR CRAVEN: Oh well, we'll have to have another hearing on this - old wives' tales by the old Senators (laughter). Thank you for bringing that up, Bob, it was a big help.

Jerry, we're going to get back to you yet. I have to be very careful in dealing with Mr. Gibbs, who lives in San Clemente, a town that I've recently acquired by virtue of redistricting, so now you can rest easy.

GERALD GIBBS: It is difficult to follow the last two persons who were here, and I will try to emphasize some of the points and I will try to differentiate a few. But, one of the things - our firm has participated in - some 13 conversions - also, and we can cite the same statistics as Sue, but the real problem that needs to be addressed is affordability. Affordability is the key to the whole transaction and, we believe, that, with this in place, affordability continues. And, there is a substitute. It stops down the line. What happens in most of the parks, we get the park for a price - and it's either condominium or corporate, or whatever it is, we get it for a price. But, then, as each person sells their home - they pass away or sell because they're going some other place - the tax rate increases, and I would venture to say that, if we studied how long the proprietary owners held the park off the market, versus selling it to residents and rolling those taxes up, I bet we would find that the tax increase for the local jurisdiction is much higher once it becomes resident-ownership, because now we couple the land and the house together, and every time it sells, it's reappraised. That's one point I'd like to make. It does encourage the sales of mobilehome parks. Park owners are very pleased with this law - at least all the ones I've dealt with. They're very pleased with it because it encourages their market place also. So, it isn't the rich versus the poor sort of thing - it's good for everybody. One of the things that we have found - a phenomenon that's increasing -

is that some cities have taken to purchasing parks, which wipes them off the tax rolls completely, and I don't think that's the solution. I think the solution is to have the residents buy the park, as then the people own the land and their home.

SENATOR CRAVEN: This, presumably, is done in order to acquire affordable housing. Is that right, Jerry?

GERALD GIBBS: Ostensibly, yes. In some cases, some of us scratch our head and wonder whether it's affordable or not, but, yes, that's the...

SENATOR CRAVEN: But, that's the guise under which they operate?

GERALD GIBBS: Yes, but Sue's analysis is extremely important. I think that counsel has reviewed the law and reviewed the cases and come up with some conclusions but, unfortunately, doesn't really understand the phenomenon of home ownership in mobilehome parks, because it very closely parallels the long-term lease. Once you're in a mobilehome park, if you indeed pay your rent and don't misbehave, and there's no change in use of that park, you're there forever - until you die or sell. So, it really is a valid exception, and I think the Legislature can act on it, and the opinion here is valid, with a few changes - the changes are only a result of the person not understanding the phenomenon of mobilehome living - and I think that's really important.

From our perspective, we'd encourage you to continue with the approach. I work with governments, I work with nonprofit corporations, I work with residents, and I work with park owners, and all of them are enthusiastically, in our experience, supporting this exemption and the other statutes that have been passed that favor mobilehome owners owning their parks. I share in Sue's enthusiasm. When you take a look at per dollar impact - that first failure to raise the taxes - and level that against what counties and cities expend administering the rent control ordinances, litigation and other things that arise in the proprietary parks, I think this is a very, very small price to pay.

SENATOR CRAVEN: Thank you very much. Ruben has a question.

SENATOR AYALA: How does the assessor treat mobilehome parks? I have one in Rialto, Ramrod, which the City of Rialto acquired the land under redevelopment and developed the park and, then, sold the property of the park back to the people who lived there - the mobilehome park people who lived in the park themselves. They own the park now and they're paying the City back and they have their own homeowners association and all this sort of good thing. How does the assessor treat that problem?

GERALD GIBBS: I don't know the specific answer to the question, but, if it was during the period of Revenue & Taxation Code 62.2, and it was done in 9 months, then they would have just been a facilitator. If, on the other hand, it came off the tax rolls, then we'd have to talk to the assessor, because there's a Possessory Use Tax assessed in some of those cases, I believe, where the city owns the property and it's leased to the third party, so that the taxes get paid through the

Possessory Use Tax. But, normally, what would happen is that the city would simply be the conduit. They'd sell to the people and the prior owner's tax rate would go through. But Ramrod,.. I don't know how long it took, or how long the city had...

SENATOR AYALA: ...how long it's been there?

GERALD GIBBS: Well, I know how long it's been there, but the people now own it, as I recall...

SENATOR AYALA: I understand the homeowners themselves own the park now, and they've formed their own committee - there's no owner of the park - they are - the residents are.

GERALD GIBBS: Right, which is what this law tends to cover.

SENATOR AYALA: Are there other similar parks throughout the state?

GERALD GIBBS: Yes, except we haven't had the city as the go-between. In some cases, we have used communities, like in Escondido. They purchased parks and sold them to residents, and they tried to do it in sufficient time and, in fact, the statutes were...

SENATOR AYALA: I went to about 30 parks during the last campaign and they all had the same problem with the park owner or the park manager, and this was the only park I visited that the people were happy.

GERALD GIBBS: They're really enthusiastic at Ramrod...

JOHN TENNYSON: The question I had for Mr. Gibbs was with regard to any suggested alternatives to 62.1. For example, someone suggested to us on the phone that a trust could be established where the trust actually owns the park and leases it on a long-term basis to the residents. Do you think something like that would work?

GERALD GIBBS: A land trust? I think that it would work, but the result is exactly the same as the lease. That's where we have to be careful of the statutory interpretation, as to whether that particular trust qualifies, because they normally do not have a 51 percent membership of the residents, so there may be a problem with that. But, in terms of... there was the prior - what was the - Proposition 154, which was defeated, had a provision about providing for low income persons, we exempted totally. I think what we're doing here is a fairer approach, which is that we simply suspend or we level it, until it's resold again. So, we would certainly work with you, John, if there is a question in that regard. I just don't have the answer right offhand.

SENATOR CRAVEN: Thank you, Jerry. Next is Paul Henning, Vice Pres., GSMOL, Northern Zone, Sacramento. Paul, nice to have you with us.

PAUL HENNING: Nice to be here, Sir. My name is Paul Henning, and I reside here in Sacramento, and I am the Vice President of the Northern Zone for Golden State Mobilehome Owners League.

You know, Senator, the last time I heard about you, you were in the hospital, and I'd like to know - you know, the Fountain of Youth? You look a lot better than ...

SENATOR CRAVEN: Not bad for a guy 85?

SENATOR DILLS: Now, you leave me out of this!

SENATOR CRAVEN: No, now, Ralph Dills isn't 85 years old, but I'm 71 years old, but I just got out of the hospital a couple of weeks ago, for a second tour in the last few months, but I'm coming along fine, Paul, and I appreciate you mentioning that.

PAUL HENNING: Well, we're glad to have you back here.

SENATOR CRAVEN: Thank you, and I'm glad to be here. It's a whole lot better than the alternative... (laughter).

PAUL HENNING: Mobilehome parks are a unique way of living and, in the past, could be classified as affordable housing. This type of business evolved into where corporations owned several parks for high profits, thus the classification of affordable housing disappeared. There are two ways to help alleviate these escalating rents that cause the homeowners from being economically evicted from their homes. One is to have some type of rent stabilization enacted in the cities and counties; and, two, the legislators recognized this situation by passing various laws to help the homeowners purchase the park if the park owner offers the sale of the park to the homeowners. Of those various laws that were passed, Senator Seymour enacted SB-2240 in 1984, that would make it affordable for the homeowners to purchase their park by freezing the taxes. That is, the taxes would stay the same and would not be assessed on the sale price of the park. This bill has made it affordable for over 70 parks in the state to be purchased by the homeowners. In the case of the park that I live in, which is Golf Green Mobile Estates, the savings was \$29,452 per year. The bottom line in freezing the taxes is to make more affordable housing available for cities and counties, to meet their quotas that are required by state and federal regulations. In an article published in the Marin Independent Journal, dated October 31, 1992, is a quote from the Justice Department that states, "unless your jurisdiction immediately complies with state housing element law, you are vulnerable to legal challenges as a result of an inadequate general plan". It goes on to say that about 60 percent of California cities have failed to comply with the housing element law, which requires local governments to produce a blueprint on how they will meet their share of affordable housing needs. And, it still goes on to say that 47 California cities were warned to set deadlines for producing affordable housing plans or risk a lawsuit from the State Department of Justice.

In my view, freezing the taxes on parks purchased by homeowners would satisfy the cities' needs for complying with the housing element law. Also, this will not interfere with any city's budget, as the taxes will not go down. I therefore urge that legislation be passed to extend the sunset date, that will benefit both the cities in obtaining affordable

housing, and the mobilehome owners by prohibiting escalating rents, in order to maintain their affordable housing. Thank you, Sir.

SENATOR CRAVEN: Thank you very much, Paul. Good to see you again. All right, the gentleman that I passed, earlier on, has now arrived, so I'll pick up there. Jerry Fisher, President, Mitchell Management Company in San Diego. How are you? Good to see you, Jerry.

JERRY FISHER: Senator Craven, ladies and gentlemen, I could hear from the past testimony that a number of issues have been addressed here as to quantity and quality and the effect of this taxing situation. I can relate to you, perhaps more succinctly, through a transaction we're involved in now, by what it does and what it does not do. From an appraiser's point of view and from a lender's point of view, \$100 increase in rent, or, if you will, an increase in housing cost, the same thing as being an increase in the taxes on a home, reduces the home value \$10,000. Now, in some of the information that has been passed out, prior to my arrival here, I saw that there were some of the tax differences that equated to say \$400. Based upon that formula I just presented to you, that means the value of the home has gone down, perhaps, \$40,000. Now, if the person is going to be buying the park, to stabilize their housing cost, and they're generating the funds to buy the park, they've been doing that all along as rent to the previous owner. Now they want to do that for themselves - now they're saddled with their equity that - what little they have in their homes - will be impacted by this increase in rent because of this involuntary situation they find themselves in. The appraiser diminishes the value of their homes, which puts them in a position of saying, "Gee, my rent was \$400 a month. I want to stabilize it. I can't borrow the funds to buy into the transaction so that my housing cost remains at \$400. I guess I have to let the transaction pass. This makes the state, perhaps, happier and the county happier, and the investor buys the park and my rent is starting to go up to \$600. Am I going to have to sell my home or, maybe, have to give it away, because I can't sell it?" So, it's a vicious cycle that happens when the involuntary increase - whether it be rent or taxes - falls upon the people that live in these affordable housing units. So, I would say your program should be continued, if it is going to help these people. If not, it's going to be very clearly an economic eviction of a great number of the people that live in these homes, because they can't remain to live there.

SENATOR CRAVEN: You know, this situation really came to pass by virtue of a Committee hearing (March, 1992, Revenue & Taxation Committee), wherein it was discussed about the possible constitutionality of what we're involved with. I don't think it was done on the basis of any rancor or anything of that nature. It all was just a matter of saying, "Bill, if you do this, you should shore up what you're doing with the foundation of constitutionality", and we, I guess, have overlooked that, because we had, I suppose, taken for granted many of the things we have done in the past. But, I don't know that there has been any degree of ground swell on the part of governmental institutions, particularly assessors, appraisers, or whatever have you, that have really come out to hack us on this thing. Have we run into that, John?

JOHN TENNYSON: San Luis Obispo is the only one.

SENATOR CRAVEN: San Luis Obispo. Well, of course, we will pray for them tonight at the Novena... (laughter).

JERRY FISHER: Some of the people that are here that are so-called consultants are out there in the trenches, and so what we learn and see, and what we are confronted with may be long in coming, before it lands in the newspaper or on your desks, and you understand how to deal with it. Financing in mobilehome parks is very, very difficult these days, and I mean financing for the residents to buy the home or sell their home. It's very difficult for the owner, the investor, to own a mobilehome park, to buy or to borrow money. What is happening is that these things are all tied together - that these mobilehome parks have been 100 percent full for the last 20 years has created all this stress and strain on the industry. The concern, and this came out in the Reporter, which is the WMA's own in-house news magazine it mails out to all its members - their October issue addressed financing and what they're concerned with is that when the value of homes decrease and people start to walk away from the homes. In the past, that was not a problem. The owner said, "Hooray, I'll replace that with a double-wide". They're not finding that to be the case, and so, what's happening is that, from the resident's standpoint, they can't sell their home now or in the future, it makes it very difficult for them to finance transactions. Fortunately, we think we've found a mousetrap that's going to work - that's putting them on the tax roll and solve that. Thanks to this last bill that was passed (AB-3179, Hauser), we're able to do that. The owners of resident parks, the investors have another problem coming up now. They've enjoyed 100 percent occupancy, they've been able to borrow money, pull money out, and go onward and upward. Now the lenders are saying, "We're reluctant to lend you money anymore, except on more stringent terms, because you're going to start having vacancies, you can't finance the people, this housing situation has got to the point where the people can't afford it." Rent is one element, the increase in taxes is another. It's the same, it's a cost. Whether it's called rent or it's called taxes, it all impacts the affordability of the home.

SENATOR CRAVEN: Yes, your explanation is very interesting. My colleagues here with me, were all supporters of the new administration, and I know that things are going to get so much better so fast it'll make your head swim (laughter), so I'm not going to worry too much about it (laughter). We all hope that it does improve, but the point that you make is something that should be considered by the tenant in the home, realizing that perhaps the gravy train, enjoyed by the park ownership heretofore, is non-existent today - at least, not to the same degree that it was - because you go to borrow money and the banks or S&L's or whomever give you that "no mas". They're afraid and I understand that. Perhaps it's well that they take that posture, because we can very ill-afford more bad loans. It will just undo us completely. Do you have anything further?

JERRY FISHER: No, but I certainly support extending that program.

SENATOR CRAVEN: Very good, Jerry, nice to have you. Thank you very much. Next is Jerry Rioux, a park conversion consultant from Grass Valley. Jerry is a rather familiar figure around here - at least, he used to be. Hello, Jerry, how are you?

JERRY RIOUX: Hi. Thank you, Senator Craven, members of the Committee. I'd like to talk a little bit about the importance of continuing Sections 62.1 and 2 of the Revenue & Taxation Code. They provide a very important financial and psychological benefit for mobilehome park residents who purchase a park. The legislation allows a slight tax benefit to park residents when they buy the park. But, I think, over time, as others have said, if you analyze the situation and the future transactions of the property, there is no net impact on the local tax base. When a mobilehome park is purchased by the residents, whether it is cut up into lots or shares, it has greater value than when it was a mobilehome park, and, therefore, the potential tax basis is higher. In addition, those individual lots or memberships turn over - they sell and are transferred cumulatively on a greater basis, at a greater number, than the parks as a whole. So, what you end up with is a situation where you have mainly more tax parcels turning over more often, and each one is worth more than the combined value of the park. So, I think a thorough analysis of the tax implications would show that, rather than costing local government money, the revisions of the bill, with the incentive that they provide for park conversions, actually increases the tax basis.

SENATOR CRAVEN: So, the sum of the parts is greater than the whole?

JERRY RIOUX: Oh, definitely. We've seen increases in the 25 percent range from the bulk value to the individual lot value - then, of course, there are some more than others. So, I think, in the end, there really is not a reduction in tax at the local level.

I'd like to also acknowledge that what you're dealing with is a real dilemma - the weighing of public policy benefits, the benefits to the local government versus the benefits to the residents of the parks. The use of tax laws to further and achieve public policies has been widely used by the entire government, at the state, local and federal level. When we want to achieve some good policy, we frequently provide tax incentives to do that - whether it's our homeowners deduction for federal and state income taxes or the enterprise zone to get businesses to locate in the inner city areas. We have spent a lot of time creating public policies to support resident ownership of mobilehome parks, and these Revenue & Taxation Codes provide a small incentive to help create that or achieve that goal.

There are two things that are related to this that I would also like you to consider for the future. First, I think it's very important that we extend the two Revenue & Taxation Code Sections and do whatever we can to make sure that they stay in force. Two related areas are the welfare tax exemption and the tax treatment of homes that are transferred to the property tax rolls. Properties that are owned by non-profit charitable corporations, religious corporations and educational corporations, are eligible for a full waiver of property

taxes. We are working with - myself and associates - a group in San Diego that is a charitable trust that has purchased one mobilehome park to operate it on a non-profit charitable basis. And, we have requested the welfare tax exemption for that property from the county tax assessor. We were given a partial exemption, based on the number of homes that are owned by the corporation, but the exemption was denied for the homes that are owned by individuals. We haven't appealed it. We're still discussing it, but we're concerned that the welfare tax exemption may be limited, in the case of a mobilehome park, and would like your support to make sure that all of the lots in a mobilehome park, that are owned by an eligible charity, would be eligible for the welfare tax exemption, that's a constitutional amendment. The park is located in Lemon Grove, and we're also working with other parks in Oceanside, Chula Vista, and in the county.

SENATOR CRAVEN: Are these parks long-standing? Are they old parks?

JERRY RIOUX: Yes. The one in Lemon Grove is about 40 years old.

SENATOR CRAVEN: That's an old park... Well, I needn't tell you of the problems we've had on relocation of the old trailers...

JERRY RIOUX: These are trailer parks...

SENATOR CRAVEN: Well, that's an ongoing problem. There's no magic wand that we can wave, to my knowledge... go ahead, John.

JOHN TENNYSON: What's a charitable trust in a mobile park context?

JERRY RIOUX: Well, what we have is a nonprofit public benefit corporation that is tax exempt under Internal Revenue Code Section 501(c)(3). So, it's a charitable nonprofit, much like a nonprofit housing development corporation - the charitable hospital and private school are all under the same type of charitable nonprofit status. It's a nonprofit that you can give a donation to that would be tax deductible. The purpose of that nonprofit is to acquire, particularly, the trailer parks, rehab them and operate them on a nonprofit basis, so that they can continue offering accommodations for the very lowest class of poor people.

JOHN TENNYSON: This is an exemption as opposed to an exclusion?

JERRY RIOUX: Yes. It's an exemption that is specified in the California Constitution, and it's a question of what that exemption applies to. There have been a number of bills, over the last couple of years, that clarified exactly where that exemption applies.

The other area I'd like you to look at, over the coming year, is the treatment of the tax basis for homes that are transferred to the property tax rolls when the park is converted. Under the law that you passed last year (AB-3179, Hauser), the homeowners can place their home on the property tax roll, in order to be eligible for better financing for their home in the park. I'm concerned that, when that occurs, people will be moving their home from a very low tax basis on HCD rolls to a much higher tax basis and, therefore, tax bill on the property tax

rolls. And, I would like you to look at the possibility of producing the tax basis at the HCD level for that initial owner, then, when the property is sold, the new owner would go to the property tax basis - the current value. That could be a very important benefit for residents who divide their park - that would be important.

And I'd like to add a comment to Senator Ayala, that the Ramrod was built for those residents. It's a very unique situation. As far as I know, it's the only one that's exactly like that. The City of Gardena bought a park a number of years ago and provided occupancy and, eventually, ownership to the residents through a long-term lease. But the federal tax laws, that enabled Gardena to do that, were changed within a year after they did it, so it's harder for cities to buy parks, own them through tax-exempt bond financing and provide the residents the ability to lease and then own it at the end of the lease. The lease-purchase is a real nice arrangement but federal tax law precludes that now. If there are any questions, I'd be happy to answer them.

SENATOR CRAVEN: I don't think we have - maybe John has one.

JOHN TENNYSON: I had one more question, and it's similar to the one that I asked Mr. Gibbs. I don't know if you have any input, but there's a section in the existing law, 62, Sub(g), I believe it is, that permits transfer of property without reassessment, where you have a lease for 35 years or more. Would that scenario fit any of these mobile park conversions?

JERRY RIOUX: There are two possibilities. One would be if you can construe the rights, conveyed by the Mobilehome Residency Law, to be comparable to a leasehold, then, that may be the basis for extending the current benefits. The other would be if the... you'd still have a problem if the park owner transfers it to someone else before offering the long-term leasehold to the rest, if I understand your question.

JOHN TENNYSON: It's my understanding that, if the park owner had these people signed up on a 35-year lease and then transferred the fee interest to a trust or something else, that would be excluded from a reassessment.

JERRY RIOUX: Right. There are very few park owners that have leases of that nature but, if you're saying that we would create leases like that, prior to the conversion, that would probably be workable.

SENATOR CRAVEN: Thank you, Jerry, very much. Next, is John DuPriest, a real estate broker and park purchase consultant, with DuPriest and Frei Real Estate in Roseville. John, nice to have you with us.

JOHN DUPRIEST: Mr. Chairman, members of the Committee. I think what we're doing here... one of the advantages of being toward the end is that everybody steals your thunder, so I can probably keep it short. What we're doing and, I think, what our goal is, for all of us, is to keep the residents competitive in the purchase of parks. Right now, they face a lot of competition in buying these parks.

There was an article recently, as a matter of fact, in April in the Los Angeles Business Journal, on page 2, in big headlines, which reads, "Los Angeles Mobilehome Parks Surface as Secret Source of Security For Residential Investors", and I quote, "The safest investment in Southern California is also one of the best kept secrets. . . With values on residential property slipping, investors are looking to hedge their bets by placing money in a financially secure product that will provide stable returns. Some say a mobilehome park is the safest way to meet investment demands, promising returns as high as 20 percent for the first 5 years," said R. J. Brandes, President of Belgravia Capitol, an Irvine-based lender that provides \$75 million to \$100 million a year in mobilehome financing. "It acts like a bond. It is stable and there are not any significant problems in downturns." By that, he means the residents in mobilehome parks are locked in because they have their homes there.

(Quoting further), "The biggest problem, from an investor's point of view, is finding a park to buy." I would guess that, in Southern California, when they ran that article, there were two kinds of investors - the ones that already own parks, cursing the columnist for alerting everybody else and, possibly, running up the price of the parks, and, also, there were probably some who said, "Well, I'll just get a higher price for my park," because that's the effect. When the word gets out on mobilehome parks, as to the high return, that it's a bond-like investment, that the supply is severely restricted, since it's almost like a prison these days - nobody wants a new one in their backyard, and it's difficult to develop new mobilehome parks. We're getting more people, particularly with our increasing older population, wanting to live in a mobilehome park, than we have mobilehome parks to let them live in.

Also, another factor in this is that there's rarely a default in a mobilehome park loan. Since they are safe, since the occupancy rate is frequently up around a hundred percent, and since they have the additional security of having the home there, in case someone does default on it, the owners are able to meet their loan payments. There are no defaults on loans. As a matter of fact, California Mortgage Brokers Association, in every report I've received in the last year... August 6th, the bottom sentence said, "There were no delinquent mobilehome park loans reported." In November, their news release said, "Slight increase in delinquency ratio for all commercial properties in California," but the very last sentence said, "Again, there were no delinquent mobilehome park loans reported."

I think that, if we lost this particular exemption, it's a double whammy to the residents. It reduces the chance of residents making the purchase. In fact, in some cases, when the purchase is close, it can be a deal killer. The property tax increase equals a monthly increase in the per space cost to that resident. It's going to be an even larger hit on that resident on individual space cost if an investor acquires the park, because, remember, he's anticipating what the L. A. Journal reported - a 20 percent return.

I'd like to piggyback a little on what Sue Loftin said. She mentioned

that there's some revenue loss to the counties and the cities but it's relatively small. I did a rudimentary spread sheet, before coming down here - that's the only kind I can do, the rudimentary ones - and I have copies I'd like to make available to you (copies distributed to members & staff by the Sergeant-at-Arms). I've listed four parks here, two that I was involved with and two that information was provided to me by the park or by the MPROP.

The first one is Ponderosa Pines, in Grass Valley, Nevada County. I represented the residents in the purchase of that park, July of 1991. You'll see that the pre-sale average rent was \$345, the pre-sale property tax, \$20,100 more or less. The difference in what the property tax would have been without this exemption was \$37,065. I've computed that to show that that's an additional monthly cost to the resident, under additional cost per space per month of \$22.22. That's a 6.44 percent increase. That's a fairly hefty increase, particularly up in this area. I was not able to get the total property tax revenue from them, so I cannot give you the percent loss. Shorecliffs, in San Clemente, which Mr. Gibbs handled, just closed. In Orange County, the difference in property tax on that one was \$89,280. I was given a figure of \$520 for the average rent, I believe - the paper article that I had said \$450, but let's go with the higher rent of \$520. Had we not had the exemption, that would have been an additional increase of 7.57 percent to the owner of the home. But look what the property tax revenue total is in Orange County - that's 1.602 billion with a "B" - so, the loss to the county, on this park, would have been 5-1/2 one-thousandths of one percent. Diamond K in Placer County, who I'm under contract with now, to represent them for purchase, if we do not have this exemption, when we make this purchase - we've been working on it for some time now - getting closer - an 8.14 percent increase, a loss to the county of 2-1/2 hundredths of a percent, or tenths of a percent. Golf Greens in Sacramento - the loss to the county, 2 one-hundredths of one percent of their revenue. So the impact, even in the short-term, which we should be looking to the long-term, obviously, is quite minimal. And, by the way, in Ponderosa Pines, the people who joined in the purchase had their rents go from \$345 a month to \$185 a month.

I think what we're truly talking about, as Paul Henning and everybody here has touched on, is affordable housing. The most affordable housing is a mobilehome park, in my opinion. There's less initial cost, there's less upkeep and rehab for the community, because the tenants own their homes - they take care of them, they don't run them down, we don't have to rehab them again. I think the communities can either pay now or pay later. If they don't take the relatively tiny exemption hit now, they'll be faced with a much higher hit, when these elderly, fixed income, people are forced out and come looking for new, more expensive, affordable housing. Rarely, do we have a chance to fulfill so many obligations at so small a cost, and I think we ought to leap on that. Thank you very much.

SENATOR CRAVEN: Thank you, John. We appreciate your testimony and the information that you have left with us. Next is Mike Arnold, legislative advocate, representing the City of Escondido. Michael.

MIKE ARNOLD: Thank you Mr. Chairman and members. It's a pleasure to be here. I'll be brief today. The City of Escondido asked me to come by because we really already helped residents convert two mobilehome parks in Escondido, and they thought it might be helpful if we simply laid out something about our experiences there. The bottom line - and I think others here before me have really stated it better than I can - the bottom line is that this question of a tax and of tax consequences of a mobilehome park conversion, doesn't make a big difference in terms of the revenue to the local agencies involved but makes a major, major difference in terms of the residents and the ability of those residents to acquire the parks. And, in fact, in our circumstances, we think it would have been a major inhibition that might have led many of the residents not to be able to acquire the parks and participate in the exchange and the resident acquisition process. The bottom, as has already been indicated, the issue is affordable housing and housing for low and moderate income people in communities where, in many instances, low and moderate income housing is, otherwise, unavailable. It just simply can't be done. So, we think that the change proposed by your legislation is an appropriate one, and the City also wanted me to extend the appreciation of the City to you, Mr. Chairman, to the Members of the Committee, and to your fine staff for all the great work that you folks have done in the mobilehome field. It's been really some fine work over the years and the citizens of Escondido are appreciative of that.

SENATOR CRAVEN: Thank you, Mike, we appreciate that. Senator Deddeh?

SENATOR DEDDEH: How easy is it now for people to go to the City of Escondido, Chula Vista - let's confine it to all of San Diego County - and to say here we have a hundred people that'd like to buy a hundred acres here or 50 acres, whatever it takes, to build a mobilehome park for about 140, 150 spaces. Do you think the City is going to be very accommodating or with a very, very dark view?

MIKE ARNOLD: Senator, I'm not prepared to answer that question today.

SENATOR DEDDEH: I'll tell you, it isn't easy... it's not very easy.

MIKE ARNOLD: Yes, I'm sure. I would not try to answer unless I felt real comfortable about doing so and I'm not...

SENATOR DEDDEH: Well, then, don't... I accept your answer.

MIKE ARNOLD: Thank you, Senator.

SENATOR CRAVEN: Thank you, Mike. Wadie, I don't think it really has ever been easy and it's not getting any better...

SENATOR DEDDEH: ...(inaudible)

SENATOR CRAVEN: You know, those of us who have had the opportunity and the pleasure of serving local government, as some of us have served on planning commissions for years, it is very, very difficult thing to sell and today, probably, is worse than years ago when I was involved

with that sort of thing. It's unfortunate that some of the people who are complainants have an attitude that harks back 40 years instead of realizing what it's going to take, what these parks look like, what it cost to live in them, and they just have no appreciation of them.

SENATOR DEDDEH: Mr. Chairman, you're familiar with San Diego County much better than I am - from Chula Vista, Rohr Industries. Rohr Industries, for those of you who may not be from San Diego County was born and raised in Chula Vista. They used to employ 13,000 employees - they're down to about 2,000 now. Three years ago, they ventured to build, for sentimental reasons, a corporate headquarters in Chula Vista - just corporate, because all their business is done somewhere else. It took them 2-1/2 to 3 years to get the necessary permit to build a corporate headquarters in the City of Chula Vista, and the reason why they wanted to build it in Chula Vista was because Pappy Rohr was born in that city and Bert (inaudible)... lived about a mile and a half from where the corporate headquarters is - just for sentimental reasons - no other economic - no geographic reasons - but it took them 2-1/2 to 3 years to get the necessary permits. I think cities and counties - it's about time for this Legislature to look at your authority and clip your wings a little bit - and I hope that we would have enough votes to do that clipping soon... soon.

SENATOR CRAVEN: All right. That's a good lead in for our last person, Jack Mador, conversion consultant with JM Resources in Carmichael.

JACK MADOR: For the record again, my name is Jack Mador, based in Sacramento. I'm a conversion consultant working with cooperative mobilehome parks and especially in rural areas. I have the pleasure and problem of going last - the pleasure that you don't have to listen to anybody else, the problem of what to add that you haven't already heard from my colleagues.

There were really two problems that the issue paper stated that you wanted some testimony on: the constitutionality problem - I'm not an attorney, and I could not add anything to that; the other seems to be the revenue base problem, and I wanted to speak to that briefly. As has been pointed out, you are not going to see a floodgate of new resident-owned parks coming on line, I would imagine even, in the next 10 years because of the difficulties of financing, even with a new administration. So, I think the problem that has been identified by MPROP probably is the relative scope of the problem and to re-focus on that, using the figures they gave, Sue pointed out that in the parks that she personally had worked on, the cost per space due to the freeze was about \$138 difference. If you take the worst extreme of the MPROP figures, they quoted a range of effect of parks from \$3,300 to \$89,000 for a single year impact. Well, an \$89,000 one percent impact represents about an \$8.9 million park, about 250 spaces in there, so you're looking, worse case, at about a \$400 impact per space annually, and I think what all of us have been trying to point out today is that no municipality can put affordable housing on the market for \$400 a space one time in a year. They just can't do it. The pay-back period is going to be into the 50 and 60 years for something like that.

When I look at programs, especially in the rural areas, you don't have to look hard. There aren't programs in the rural areas. This is the one tool that you have available to all jurisdictions across the state, counties, unincorporated areas that do not have housing trust funds, do not have the staff to do a lot of requests for CDBG - they have no entitlements. They, basically, have nothing going for them except this one measure. And I think when you look at the number of mobilehome parks, even though we have the heavy concentration down south, but, if you look at the number of mobilehome parks up north and rural areas that have no other formal support from municipalities of government, this measure is their only hope. And I think that the key for you all to focus on is the one that I think we've all alluded to, but not only are we talking about affordable housing, you are talking about a preponderance of seniors, fixed income, and low-income individuals who, if they can't maintain this living habitat, really move out of the dignity of some type of home ownership and really move into a lot of questions where they would live, all with, I believe, increasing burdens to whatever municipality they live in. And I hope that these comments might add a little different perspective for you.

SENATOR CRAVEN: Fine, Jack. Thank you very much. Appreciate your being with us. Is there anyone else that I haven't shown on the agenda who might wish to speak? Any of you? Yes, Ma'am, please come forward.

VIRGINIA SMITH: My name is Virginia Smith, and I live in Santa Rosa. I'm on the Board of Directors of the Sonoma County Mobilehome Owners Association and also a member and officer in the Golden State Mobilehome Owners Association. Right now, in Sonoma County, there are three parks which are moving toward resident-ownership. One of them is just thinking about it, the residents are talking about it. Another one is half-way through the process, and another park is well along started in it. We need this extension very much because these parks will probably not complete the process for another year - it takes that long to go through the paperwork and the negotiations. So, if this thing runs out, these parks are going to be out of luck, because they're low-income people, and it's going to get pretty desperate. We need low-income housing in Sonoma County as well as anywhere else and mobilehome parks, as they have said before, are the best source of low-income housing.

SENATOR CRAVEN: The point you raise is very valid and is particularly interesting to me because I have had involvement, you know, with the legislation. People who would be put in that predicament that you have described would probably be well-served when we go back again to fight the battle to try to get this through the standing committees, if they would write or be here in person. I know that that's not easy but, you know, some of them may be able to. It would be very, very helpful. We used to say, back in local government - I don't notice it here so much - but years ago, you know there was nothing like 50 clinched fists out there in the audience... (laughter)... it has a tendency to sway the vote at times.

VIRGINIA SMITH: Well, we found that true at the Board of Supervisors. We'd come down there, about 50 or 60 of us, and we were all wearing

little yellow ribbons, and they knew we were out there and that we voted, and so they've been sympathetic to us.

SENATOR CRAVEN: Senator Ayala and myself are former Supervisors and we know very well what she's saying. I think it was Sue or somebody, one of the earlier speakers, talking about the seniors aren't just sitting around doing nothing. They're all writing letters to us, you know, saying, "What the hell is the matter with you people?" But, I'll tell you, it is very, very important that you keep in touch with us, and, sometimes, you may think it's a trivial thing. Well, there's nothing that's too trivial. Listen, we handle all kinds of things, some of which are trivial, but that's your right and that's what you ought to do. We can't promise you, guarantee you, anything except one thing: that we will bust our tails to help you, and that we will do. Okay. Thank you very much.

VIRGINIA SMITH: Thank you.

SENATOR CRAVEN: Anyone else? Very good. Time for the benediction.

Well, all of us here, who have had the pleasure of being with you this afternoon appreciate your presence and, as always, you have provided us with a lot of new thoughts and a lot of encouraging words as well. And that means a great deal to us because you may not recognize it but, in this business, you know, an encouraging word is very, very appreciated because, so many times, you read the newspaper and we get hacked for things that didn't even happen in our house, it happened in the Assembly, and yet they lump us all together. So, when we do hear from you, we're most appreciative and we thank you for coming down. We look forward to our next meeting which, hopefully, will be in the coming year, and maybe we'll have some victories to talk about at that time. Thank you all very much. We are adjourned.

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A P P E N D I X

(Related Materials & Information)

DECEMBER 8, 1993

SENATE BILL**No. 1312****Introduced by Senator Craven**

January 22, 1992

An act to amend Section 62.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1312, as introduced, Craven. Mobilehomes: reassessment.

Existing property tax law requires the reassessment of real property upon a change in ownership and specifies which transfers of property constitute a change in ownership. It provides that any transfer of a mobilehome park to an entity formed by the tenants of a mobilehome park for the purpose of purchasing the park shall be excluded from a change in ownership, provided that the individual tenants who were renting at least 51% of the spaces in the park prior to the transfer participate in the transaction through the ownership of at least 51% of the interest in the entity which acquires the park. It also provides that any transfer of rental spaces in a mobilehome park to the individual tenants of the rental spaces shall be excluded from a change of ownership, provided that at least 51% of the rental spaces are purchased by individual tenants renting their spaces prior to purchase and the individual tenants form a resident organization to operate and maintain the park. These exclusions remain operative only until January 1, 1994.

This bill would extend the operation of these exclusions until January 1, 2000. By requiring county assessors to continue administering these change-of-ownership provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 62.1 of the Revenue and
2 Taxation Code is amended to read:

3 62.1. Change in ownership shall not include either of
4 the following:

5 (a) Any transfer, on or after January 1, 1985, of a
6 mobilehome park to a nonprofit corporation, stock
7 cooperative corporation, limited equity stock
8 cooperative, or other entity formed by the tenants of a
9 mobilehome park, for the purpose of purchasing the
10 mobilehome park, provided that, with respect to any
11 transfer of a mobilehome park on or after January 1, 1989,
12 subject to this subdivision, the individual tenants who
13 were renting at least 51 percent of the spaces in the
14 mobilehome park prior to the transfer participate in the
15 transaction through the ownership of an aggregate of at
16 least 51 percent of the voting stock of, or other ownership
17 or membership interests in, the entity which acquires the
18 park.

19 (b) Any transfer or transfers on or after January 1,
20 1985, and before January 1, ~~1994~~ 2000, of rental spaces in
21 a mobilehome park to the individual tenants of the rental
22 spaces, provided that (1) at least 51 percent of the rental
23 spaces are purchased by individual tenants renting their
24 spaces prior to purchase, and (2) the individual tenants

1 of these spaces form, within one year after the first
2 purchase of a rental space by an individual tenant, a
3 resident organization as described in subdivision (k) of
4 Section 50781 of the Health and Safety Code, to operate
5 and maintain the park. If, on or after January 1, 1985, and
6 before January 1, ~~1994~~ 2000, an individual tenant or
7 tenants notify the county assessor of the intention to
8 comply with the conditions set forth in the preceding
9 sentence, any mobilehome park rental space which is
10 purchased by an individual tenant in that mobilehome
11 park during that period shall not be reappraised by the
12 assessor. However, if all of the conditions set forth in the
13 first sentence of this subdivision are not satisfied, the
14 county assessor shall thereafter levy escape assessments
15 for the spaces so transferred. This subdivision shall apply
16 only to those rental mobilehome parks which have been
17 in operation for five years or more.

18 (c) (1) If the transfer of a mobilehome park has been
19 excluded from a change in ownership pursuant to
20 subdivision (a) and the park has not been converted to
21 condominium, stock cooperative ownership, or limited
22 equity cooperative ownership, any transfer on or after
23 January 1, 1989, of shares of the voting stock of, or other
24 ownership or membership interests in, the entity which
25 acquired the park in accordance with subdivision (a)
26 shall be a change in ownership of a pro rata portion of the
27 real property of the park unless the transfer is for the
28 purpose of converting the park to condominium, stock
29 cooperative ownership, or limited equity cooperative
30 ownership or is excluded from change in ownership by
31 the provisions of Section 62, 63, or 63.1.

32 (2) For the purposes of this subdivision, "pro rata
33 portion of the real property" means the total real
34 property of the mobilehome park multiplied by a fraction
35 consisting of the number of shares of voting stock, or
36 other ownership or membership interests, transferred
37 divided by the total number of outstanding issued or
38 unissued shares of voting stock of, or other ownership or
39 membership interests in, the entity which acquired the
40 park in accordance with subdivision (a).

1 (3) Any pro rata portion or portions of real property
 2 which changed ownership pursuant to this subdivision
 3 may be separately assessed as provided in Section 2188.10.
 4 (d) Subdivisions (a) and (b) shall remain operative
 5 only until January 1, ~~1994~~ 2000.
 6 (e) It is the intent of the Legislature that, in order to
 7 facilitate affordable conversions of mobilehome parks to
 8 tenant ownership, subdivision (a) apply to all bona fide
 9 transfers of rental mobilehome parks to tenant
 10 ownership, including, but not limited to, those parks
 11 converted to tenant ownership as a nonprofit corporation
 12 made on or after January 1, 1985, and before the
 13 termination date of subdivision (a).
 14 SEC. 2. Notwithstanding Section 17610 of the
 15 Government Code, if the Commission on State Mandates
 16 determines that this act contains costs mandated by the
 17 state, reimbursement to local agencies and school
 18 districts for those costs shall be made pursuant to Part 7
 19 (commencing with Section 17500) of Division 4 of Title
 20 2 of the Government Code. If the statewide cost of the
 21 claim for reimbursement does not exceed one million
 22 dollars (\$1,000,000), reimbursement shall be made from
 23 the State Mandates Claims Fund. Notwithstanding
 24 Section 17580 of the Government Code, unless otherwise
 25 specified in this act, the provisions of this act shall become
 26 operative on the same date that the act takes effect
 27 pursuant to the California Constitution.

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Honorable Quentin L. Kopp
2057 State Capitol

Change in Ownership: Mobilehome Parks - #6691

Dear Senator Kopp:

QUESTION

Would the extensions proposed by Senate Bill No. 1312 of the 1991-92 Regular Session, as introduced, of the existing exclusions of certain transfers of mobilehome parks from "change in ownership" be valid interpretations of that term as it is used in Article XIII A of the California Constitution?

OPINION

The extensions proposed by Senate Bill No. 1312 of the 1991-92 Regular Session, as introduced, of the existing exclusions of certain transfers of mobilehome parks from "change in ownership" would not be valid interpretations of that term as it is used in Article XIII A of the California Constitution.

ANALYSIS

Section 1 of Article XIII A of the California Constitution¹ limits the rate of ad valorem property taxes on real property to 1 percent of the full cash value of that property (subd. (a)), with specified exceptions (subd. (b)). For purposes of that limitation, Section 2 of Article XIII A defines "full cash

¹ All further article references are to the California Constitution, unless otherwise specified.

Honorable Quentin L. Kopp - p. 2 - #6691

value" as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.

Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1 of the Revenue and Taxation Code² defines change in ownership for purposes of Article XIII A. The various sections contained within that chapter define the phrase "change in ownership" and, in addition, specify various types of transfers of real property that are or are not a change in ownership for purposes of Article XIII A. Specifically, Section 60 establishes a basic definition of "change in ownership" by providing that the term means "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." Section 62.1 provides that certain transfers relating to mobilehome parks do not involve a change in ownership.

You have asked us whether the amendments proposed by Senate Bill No. 1312 of the 1991-92 Regular Session, as introduced (hereafter S.B. 1312), to Section 62.1 would be valid interpretations of "change of ownership" as that term is used in Article XIII A.

Subdivision (a) of Section 62.1 provides for the exclusion from change in ownership of "any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by" those tenants, provided that with respect to any transfer as so described occurring on or after January 1, 1989, those individual tenants owning at least 51 percent of the spaces in the park prior to the transfer own at least 51 percent of the ownership or membership interests in the acquiring entity. Subdivision (a) of Section 62.1 is operative only until January 1, 1994 (subd. (d), Sec. 62.1).

Subdivision (b) of Section 62.1 provides for the exclusion from "change in ownership" of any transfer or transfers, on or after January 1, 1985, and before January 1, 1994, of rental spaces in a mobilehome park if, among other things, the tenants form, within one year after the first purchase of a rental space

² All section references are to the Revenue and Taxation Code, unless otherwise indicated.

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by a tenant, a nonprofit corporation, stock cooperative corporation, or other entity, as described, for the park's operation and maintenance.

S.B. 1312 would extend the operation of subdivisions (a) and (b) of Section 62.1 until January 1, 2000. Consequently, S.B. 1312 would expand the period within which those mobilehome parks, subject to the existing exclusions from change in ownership, may avoid being reappraised at a higher base year value after transfer, despite a change in legal title.

Generally speaking, terms used in a constitutional amendment must be construed in the light of their meaning at the time of the adoption of the amendment, and cannot be extended by legislative definition, for that extension would, in effect, be an amendment of the California Constitution, if accepted as authoritative (Forster Shipbuilding Co., Inc. v. County of Los Angeles, 54 Cal. 2d 450, 456).

The phrase "change in ownership" was not specifically defined by statute or by the courts prior to the addition of Article XIII A to the California Constitution. Generally, it is an elastic phrase that has not been limited to specific transactions or exchanges, and we think that its proper application will be construed to be subsidiary to the main consideration of limiting taxes on certain property and allowing reappraisals, for tax purposes, only at times that the taxpayers could reasonably expect to be subject to those reappraisals.

The Legislature will not be prohibited from revising or adding to the phrase "change in ownership" to the extent the generally understood use of the term, in light of the purpose of Article XIII A, is not revised to defeat the intent of the voters when they approved the addition of the property tax limitations contained in Article XIII A (see Estate of Roberts, 49 Cal. App. 2d 71, 77).

Consistent with this principle, the court in E. Gottschalk & Co. v. County of Merced, 196 Cal. App. 3d 1378, 1385-1386 (hereafter Gottschalk) upheld Section 60, and paragraph (1) of subdivision (c) of Section 61, on the basis that those provisions were "reasonable interpretations" of "change in ownership." Section 60 defines "change in ownership" to mean "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal

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to the value of the fee interest." Paragraph (1) of subdivision (c) of Section 61 provides, in relevant part, that "change in ownership" includes the following:

"(c)(1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

"Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

* * *

In upholding the foregoing provisions, the court stated that "ownership" generally refers to "the right of possession and use to the exclusion of others, as distinguished from technical aspects of title [citation omitted] and further commented that "[t]his basic concept of ownership is consistent with the purposes, goals, and design of article XIII A, which is primarily a tax relief measure ..." (Gottschalk, supra, at p. 1385). In the more recent case of Larson v. Duca, 213 Cal. App. 3d 324 (hereafter Larson), the court cited with approval the approach taken by the court in Gottschalk (Larson, supra, at pp. 329-330) and stated, consistent with the language of Section 60, that under Article XIII A, a "change in ownership does not occur, upon the 'transfer of bare legal title' to property, without a corresponding transfer of 'the beneficial use thereof'" (citation omitted; emphasis in original; Larson, supra, at p. 329).

Most recently, the California Supreme Court has set forth a specific three-step test for determining whether a change in ownership has taken place (Pacific Southwest Realty Company v. County of Los Angeles, 1 Cal. 4th 155; hereafter Pacific Southwest). In particular, the court recited the language of Section 60 in declaring that "a change in ownership means [1] a

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transfer of a present interest in real property, [2] including the beneficial use thereof, [3] the value of which is substantially equal to the value of the fee interest" (Pacific Southwest, supra, at p. 162).

Taken by themselves, the changes proposed by S.B. 1312 do not raise substantial issues of constitutional validity. Fundamentally, the proposed changes would only extend the duration of existing exclusions of certain transfers from change in ownership. Consequently, the relevant focus in the application of the foregoing authorities is the entirety of the exclusions established by subdivisions (a) and (b) of Section 62.1, as proposed to be amended by S.B. 1312.

In this regard, it may be argued that the exclusions in question may be read together with subdivision (c) of Section 61, upheld in Gottschalk, supra, and discussed with approval in Pacific Southwest, supra, at page 165. As set forth above, subdivision (c) of Section 61 characterizes the creation of a lease for 35 years or more as a change in ownership in itself. As a result, it could conceivably be argued that where leases have already "transferred" ownership to mobilehome park tenants, no additional change in ownership occurs when those tenants receive actual fee title to rented spaces, or fee title to the entire mobilehome park is transferred to a tenant organization.

Whatever the merits of the foregoing proposition, the terms of the extended exclusions do not expressly or impliedly limit their application to fee interests in real property subject to long-term leases as described in subdivision (c) of Section 61. The exclusions in question are not limited to the situation in which the park tenant already owns a leasehold interest that is essentially equivalent to the fee interest. Instead, those exclusions would apply to situations in which there is a change of ownership involving all of the essential characteristics recited by the court in Pacific Southwest, supra, at page 162: A transfer of a present interest, including beneficial use, the value of which is substantially equal to the value of the fee interest.

Therefore, despite the general rule that statutes should be construed whenever possible so as to preserve their constitutionality (Dyna-Med, Inc. v. Fair Employment and Housing Com., 43 Cal. 3d 1379, 1387), the exclusions in question may not be construed as mirroring the constitutionally sound interpretation of "change in ownership" of subdivision (c) of Section 61.

ANALYSIS OF REASSESSMENT EXEMPTION IN MPROP PROJECTS

Date of Printing: 13-Nov-92



PARK NAME	COUNTY	ANNUAL		PROPERTY TAX		ESTIMATED		DIFFERENCE	PARK	ANNUAL
		PROPERTY	TAXES	OR ASSESSED	SALES PRICE	PROPERTY TAXES W/OUT	EXEMPTION			PER SPACE
				VALUE				TAX BILL	SIZE	IN TAXES
Sunset View	Mendocino	\$11,684		\$1,168,400	\$1,500,000	\$15,000		\$3,316	68	\$49
Blue Skies	Riverside	\$23,000		\$2,300,000	\$3,274,700	\$32,747		\$9,747	142	\$69
Hacienda	San Diego	\$2,400		\$240,000	\$1,100,000	\$11,000		\$8,600	33	\$261
Golf Green	Sacramento	\$20,548		\$2,054,800	\$5,000,000	\$50,000		\$29,452	185	\$159
Pacific Family Coop	Santa Cruz	\$5,202 (1)		\$520,200	\$838,000	\$8,380		\$3,178	33	\$96
The Views MHP	San Diego	\$11,500		\$1,150,000	\$5,400,000	\$54,000		\$42,500	150	\$283
Highlands MH Commun.	San Diego	\$35,969		\$3,596,900	\$8,000,000	\$80,000		\$44,031	305	\$144
Quail Run MHP	San Luis Obispo	\$44,050 (2)		\$4,405,000	\$5,676,000	\$56,760		\$12,710	172	\$74
Mt. Shadows MHP	San Diego	Reassessed upon City Purch., 2/91			\$7,935,185	\$79,352		\$79,352	208	\$381
Arbor Trailer Park	Santa Barbara	\$3,684		\$368,427	\$689,000	\$6,890		\$3,206	45	\$71
Hidden Hills MHP	San Luis Obispo	\$2,016		\$201,600	\$2,065,000	\$20,650		\$18,634	35	\$532
Portola Palms MHP	Riverside	\$23,856		\$2,385,600	\$4,500,000	\$45,000		\$21,144	141	\$150
Shorecliffs MHP	Orange	\$38,000		\$3,800,000	\$12,728,125	\$127,281		\$89,281	189	\$472
Thurston Trailer Pk.	Orange	\$9,884 (1),(3)		\$988,380	\$1,350,000	\$13,500		\$3,616	29	\$125
Mountain Brook	Santa Cruz	\$3,504		\$350,400	\$712,000	\$7,120		\$3,616	44	\$82

\$372,383

- (1) Property taxes based on known assessed value.
- (2) Purchased by seller on November 17, 1989
- (3) Purchased by seller on March 31, 1989.

ASSESSMENT

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4. Assessment by State Board of Equalization Generally	721
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WESTLAW Electronic Research

WESTLAW supplements West's Annotated California Revenue and Taxation Code and is useful for additional research. Enter a citation in INSTA-CITE for display of any parallel citations and case history. Enter a constitution, statute or rule citation in a case law database for cases of interest.

Example query for INSTA-CITE: IC 26 Cal.Rptr. 640

Example query for statute: Tax.Code T.Code Taxation Tax /s 6051

Chapter 1**TAXATION BASE**

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202.	Exemptions; crops; libraries; museums; schools; educational facilities; public property.

TAXABLE AND EXEMPT PROPERTY

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Section

- 202.1. Exemptions; turf grass.
- 202.2. Reduction in property taxes on leased property used for educational purposes, etc.; benefit to lessee; claim for refund by lessee if lessor fails to claim exemption.
- 202.5. Exemptions; personal property used in management and control of state colleges.
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- 203. Exemptions; colleges; definitions.
- 203.1. Exemptions; student bookstore.
- 203.5. Exemptions; certain schools; library and gallery.
- 204. Exemptions; cemeteries.
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- 205.1. Fulfillment of intent of subdivisions (o), (p), (q) and (r) of Const. Art. 13, § 3.
- 205.5. Exemptions; home of disabled veteran and spouse; duration of section.
- 205.5. Exemptions; home of disabled veteran and spouse.
- 205.7, 205.8. Repealed.
- 206. Exemptions; churches.
- 206.1. Exemptions; church parking lots.
- 206.2. Exemptions; property leased for religious worship; rent reduction or rebate.
- 207. Property used exclusively for religious purposes; religious exemption; effective date.
- 208. Exemptions; bonds.
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- 209.5. Exemptions; vessels under construction; materials and parts.
- 210, 210.5. Repealed.
- 211. Exemptions; immature trees and vines.
- 212. Exemptions; evidences of indebtedness, shares, securities, etc.; money on hand.
- 213. Exemptions; property for exhibition; restrictions.
- 213.5. Free use of certain exempt property as polling place.
- 213.6. Exemptions; personal property of organizations with purpose of meeting emergencies, promoting public welfare, and providing aviation and aerospace education and training; effectiveness and duration.
- 213.7. "Property used exclusively for religious, hospital, scientific or charitable purposes" as including property of volunteer fire department; qualifying as exempt organization.
- 214. Exemptions; property for religious, hospital, scientific or charitable purposes; property owned and operated by religious, hospital or charitable funds, foundations or corporations; requirements; particular property.
- 214.01. Exemptions; welfare; irrevocable dedication to religious, charitable, scientific or hospital purposes.
- 214.02. Exemptions; property used for educational interest, open-space lands, etc.; nonapplicability of exemption.
- 214.1. Exemptions; welfare; definition of property for religious, hospital, scientific or charitable purposes.
- 214.2. Exemptions; welfare; "facilities in course of construction" defined.
- 214.3. Exemptions; welfare; reversionary property.
- 214.4. Exemptions; welfare; school of less than collegiate grade.
- 214.5. Exemptions; welfare; property for schools operated by religious, hospital or charitable funds.
- 214.6. Exemptions; welfare organizations; leases to exempt governmental and educational entities; church exemption claims.
- 214.7. Exemptions; welfare; use of hospital facilities by physician.

PROPERTY TAXATION—ASSESSMENT

Div. 1

Section

- 214.8. Exemptions; welfare and veterans' organizations; filing letter of ruling.
- 214.9. Exemptions; welfare; hospital as including outpatient clinic; furnishing psychiatric services.
- 214.10. Exemptions; welfare organizations; nonprofit corporations for benefit of low-income, unemployed and underemployed citizens.
- 214.11. Exemptions; nonprofit organizations; property exclusively for hospital purposes; presumption.
- 214.12. Welfare exemption; interests not of record on lien date.
- 214.13. Exemptions; welfare; property required to be conveyed to state under redevelopment plan by county, city or nonprofit entity.
- 215. Exemptions; welfare; veterans' organizations; restrictions.
- 215.1. Exemptions; veterans' organizations; real property.
- 215.2. Exemptions; welfare and veterans organizations; property used for conduct of bingo games; proceeds for charitable purposes.
- 215.5. Exemptions; property of nonprofit educational television corporations and noncommercial educational FM or AM broadcast stations.
- 216. Exemptions; blind person's vending stand stock.
- 217. Exemptions; articles displayed in publicly owned art gallery or museum.
- 217.1. Exemptions; articles of personal property made available for display in aerospace museums.
- 218. Exemptions; homeowner's property tax; amount; exclusions; definitions.
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- 219. Exemption of business inventories.
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- 221. Exemptions; welfare; nursery school defined.
- 222. Exemptions; personalty of nonprofit zoological society.
- 222.5. Exemptions; possessory interests in publicly owned land used by zoological society.
- 223. Exemptions; fruit trees, nut trees and grape vines of grower.
- 224. Exemptions; personal effects, household furnishings and pets.
- 225. Repealed.
- 225.1 to 225.3. Repealed.
- 225.5. Exemptions; welfare; educational television station and noncommercial educational FM broadcast station defined.
- 226. Repealed.
- 227. Documented vessels; assessment.
- 228. Exemptions; vessels; valuation; conditions.
- 229. Floating homes; assessment; determination of valuation; definition.
- 231. Exemptions; property of nonprofit corporation used exclusively by government.
- 232. Exemptions; cargo containers in ocean commerce.
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- 234. Exemptions; seed potatoes; inapplicability to plant nurseries.
- 235. Tangible personal property owned by bank or financial corporation; presumption of ownership in lessee.

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CHAPTER 1. TAXATION BASE

ARTICLE 1. TAXABLE AND EXEMPT PROPERTY

Section

- 201.3. Exemption property owned by nonprofit entity in which chartered city has sole ownership interest.
- 201.4. Property located on Indian reservation in which nonprofit entity has possessory interest, solely owned by the City of Palm Springs; property owned in fee by a nonprofit entity in which the City of Palm Springs has sole ownership interest.
- 214.05. Exemptions; organizations; unrelated business taxable income; filing requirements.
- 214.14. Exemptions; property used exclusively for charitable purposes of museums; restrictions on ownership; exclusive use.
- 220.5. Exemptions; aircraft of historical significance; conditions.
- 226. Exemptions; qualified computer equipment; San Diego supercomputer center.
- 236. Exemptions; property leased for 35 years or more used exclusively for low income housing and operated by charitable organizations.

ARTICLE XIII A *

[TAX LIMITATION]

[Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues]

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

[Exceptions to Limitation]

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on (1) any indebtedness approved by the voters prior to July 1, 1978, or (2) any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition. *[As amended June 3, 1986.]*

[Valuation of Real Property—Appraised Value After 1975 Assessment—Replacement Dwelling]

SEC. 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, "newly constructed" does not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

* New article adopted June 6, 1978. Initiative measure.

However, the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this state. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district which receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

[Full Cash Value Reflecting Inflationary Rate]

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

["Newly Constructed"]

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include both of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, which is constructed or installed after the effective date of this paragraph.

["Change in Ownership"]

(d) For purposes of this section, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

[Disasters—Replacement Property]

(e) Notwithstanding any other provision of this section, the Legislature shall provide that the base-year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property, within the same county, that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

This subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base-year values for the 1985-86 fiscal year and fiscal years thereafter.

[Disasters—Replacement Property]

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

[Real Property Transfers between Spouses]

(g) For purposes of subdivision (a), the terms "purchased" and "change in ownership" shall not include the purchase or transfer of real

property between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse which take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

[Real Property Transfers between Parents and Children]

(h) For purposes of subdivision (a), the terms "purchased" and "change of ownership" shall not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

[Effectiveness of Amendments]

(i) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership which occur, and new construction which is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership which occur, and new construction which is completed, on or after the effective date of the amendment. *[As amended November 8, 1988.]*

[Changes in State Taxes—Vote Requirement]

SECTION 3. From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. *[New section adopted June 6, 1978. Initiative measure.]*

[Imposition of Special Taxes]

SECTION 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. *[New section adopted June 6, 1978. Initiative measure.]*

[Effective Date of Article]

SECTION 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. *[New section adopted June 6, 1978. Initiative measure.]*

[Severability]

SECTION 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. *[New section adopted June 6, 1978. Initiative measure.]*

§ 62. Change in ownership; exclusions

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TO BACKGROUND PAPER Change in ownership shall not include:

(a)(1) Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c)(1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land and have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended,¹ or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949² or Section 202 of the Housing Act of 1959,³ or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income which, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars (\$20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984-85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984-85 fiscal year.

§ 62.1. Change in ownership; mobilehome park exclusion; pro rata portion of the real property; conversion to condominium, stock cooperative ownership, or limited equity cooperative ownership; operative dates; legislative intent

Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 1994, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a * * * resident organization as described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 1994, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred. This subdivision shall apply only to those rental mobilehome parks which have been in operation for five years or more.

(c) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by the provisions of Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means 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 which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) Subdivisions (a) and (b) shall remain operative only until January 1, 1994. * * *

(e) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

(Amended by Stats.1987, c. 1344, § 1, eff. Sept. 29, 1987; Stats.1988, c. 1076, § 1; Stats.1991, c. 442 (S.B.674), § 1, eff. Sept. 26, 1991.)

§ 62.2. Change in ownership; exclusion of certain transfers if followed within one year by other certain transfers

Change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity, including a governmental entity, if, within * * * one year after the transfer, the mobilehome park is transferred by that corporation or other entity, including a governmental entity, to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of the mobilehome park in a transaction which is excluded from change in ownership by subdivision (a) of Section 62.1, or at least 51 percent of the mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of Section 62.1. With respect to any transfer of any mobilehome park on or after January 1, 1989, subject to this section, the individual tenants who are renting at least a majority of the spaces in the mobilehome park prior

Additions or changes indicated by underline; deletions by asterisks * * *

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to the transfer to the entity formed by the tenants for the acquisition of the park shall participate in the transaction through the ownership of an aggregate of at least a majority of voting stock of, or other ownership or membership interest in, that entity. This section shall not apply if any fees charged the mobilehome park tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer, plus any accrued interest and taxes. If the assessor is notified in writing at the time the transferee files the change in ownership statement that the transferee intends to qualify the transfer under this section, the mobilehome park shall not be reappraised pending satisfaction of the above conditions. If the transferee fails to satisfy those conditions, the assessor shall reappraise the mobilehome park and levy escape assessments or supplemental assessments, as appropriate.

(Added by Stats.1988, c. 1625, § 2. Amended by Stats.1991, c. 244 (S.B.674), § 2, eff. Sept. 26, 1991.)

Historical and Statutory Notes

1991 Legislation

The 1991 amendment, in the first sentence, inserted "including a governmental entity" twice, substituted "one year" for "270 days", and inserted "or at least 51 percent of the

mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of Section 62.1".

Amendment of this section by § 2.5 of Stats.1991, c. 442 (S.B.674), failed to become operative under the provisions of § 3 of that Act.

§ 63.1 Transfers between parents and children; exclusion from change in ownership

(a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence which consists of an area of reasonable size which is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar (\$1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children.

(2) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

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(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(3) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(4) "Eligible transferor" means a parent or child of an eligible transferee.

(5) "Eligible transferee" means a parent or child of an eligible transferor.

(6) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(7) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(d) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

(2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferee. The written certification shall also include either or both of the following:

(A) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(B) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor which is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the Social Security number of each eligible transferor, and the names of the eligible transferees of that property.

(C) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee of the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (e) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

The State Board of Equalization shall design the form for claiming eligibility. Any claim under this section shall be filed within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to this subdivision. Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the * * * Social Security number of each eligible transferor, and any other information as the board shall require in order to monitor the one million dollar (\$1,000,000) limitation in paragraph (2) of subdivision (a).

(e) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

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(f) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, which occurred prior to that date.

(Added by Stats.1987, c. 48, § 1, eff. June 17, 1987. Amended by Stats.1988, c. 700, § 1; Stats.1988, c. 769, § 3; Stats.1990, c. 126 (S.B.124), § 3, eff. June 11, 1990; Stats.1990, c. 1494 (A.B.3843), § 1.5, eff. Sept. 30, 1990, operative Jan. 1, 1991.)

§ 64. **Purchase or transfer of ownership interests in legal entities; transfer of real property of legal entity; corporate reorganizations by merger or consolidation within affiliated group; control of corporation through purchase or transfer of stock exclusive of directors' shares**

(a) Except as provided in subdivision (h) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation, or obtains a majority ownership interest in any partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interests in other legal entities, such purchase or transfer of such stock or other interest shall be a change of ownership of property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in such legal entity immediately after the transfer shall be considered the "original coowners." Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property which was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests which results in a change in control of a corporation, partnership, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks and corporations (except tax-exempt organizations):

If the corporation (or partnership) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership capital and partnership profits) (1) been transferred by the corporation (or partnership) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers "yes" to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership ownership interest transferees to the State Board of Equalization.

(Amended by Stats.1988, c. 560, § 1.)

(a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.

(b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the "original transferor or transferors" for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

(e) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

(Amended by Stats.1988, c. 160, § 164; Stats.1988, c. 560, § 2; Stats.1988, c. 1271, § 1, eff. Sept. 28, 1988.)

§ 65.1. Partial interests; change of ownership; reappraisal; application of tax increase

(a) Except for a joint tenancy interest described in subdivision (f) of Section 62, when an interest in a portion of real property is purchased or changes ownership, only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an interest with a market value of less than 5 percent of the value of the total property shall not be reappraised if the market value of the interest transferred is less than ten thousand dollars (\$10,000) provided, however, that transfers during any one assessment year shall be cumulated for the purpose of determining the percentage interests and value transferred.

(b) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated among all other units or lots of such property.

§ 66. Employee benefit plans; creation, vesting, etc., not a change in ownership

Change in ownership shall not include any of the following:

(a) The creation, vesting, transfer, distribution, or termination of a participant's or beneficiary's interest in an employee benefit plan.

(b) Any contribution of real property to an employee benefit plan.

(c) Any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect control, as defined in Section 25105, in the employer corporation.

As used in this section, the terms "employer," "employee benefit plan," "participant," and "beneficiary" shall be defined as they are defined in The Employee Retirement Income Security Act of 1974.¹

§ 68. Change of ownership; adjusted base year value; application of section; request for assessment; change in adjusted base year, value of replacement property

For purposes of Section 2 of Article XIII A of the Constitution, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation.

The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

(a) The adjusted base year value of the property from which the person was displaced.

(b) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

Persons acquiring replacement property between March 1, 1975, and January 1, 1983, shall request assessment under this section with the assessor on or before January 1, 1987. Persons acquiring replacement property on and after January 1, 1983, shall request assessment within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final.

Any change in the adjusted base year value of the replacement property acquired, resulting from the application of the provisions of this section, shall be deemed to be effective on the first day of the month following the month in which the property is acquired. The change in value shall be treated as a change in ownership for the purpose of placing supplemental assessments on the supplemental roll pursuant to Chapter 3.5 (commencing with Section 75). The assessor shall, however, appraise the replacement property acquired in accordance with the provisions of this section rather than the provisions of Section 75.10. The provisions of Chapter 3.5 shall be liberally construed in order to provide the benefits of this section and Section 2 of Article XIII A of the California Constitution to affected property owners at the earliest possible date.

(Added by Stats.1982, c. 1465, p. 5637, § 5.5. Amended by Stats.1983, c. 662, § 2, eff. Sept. 7, 1983; Stats.1985, c. 186, § 5.)

damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. 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 disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof which satisfies the use requirement but has a full cash value which exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) This section shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership interest in a legal entity which, directly or indirectly, owns real property is not an acquisition of comparable property.

(Added by Stats.1986, c. 855, § 1, eff. Sept. 17, 1986.)

§ 69. Property substantially damaged or destroyed by a disaster; transfer of base-year value to comparable property

(a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base-year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within two years after the disaster as a replacement for the substantially damaged or destroyed property. At the time the base-year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base-year value of the replacement property acquired shall be determined in accordance with this section.

The following procedure shall be used by the assessor in determining the appropriate replacement base-year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base-year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base-year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base-year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base-year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base-year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base-year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial

GOLDEN STATE MOBILHOME OWNERS LEAGUE, INC.



INGE M. SWAGGART, VP-ROP

P. O. Box 202

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DECEMBER 8, 1992 HEARING

SENATE SELECT COMMITTEE ON MOBILHOMES - STATE CAPITOL

"A Homeowners Association"

TO: William A. Craven, Chairman
Ralph C. Dills
Dan McCorquodale
Henry Mello
Robert Presley
Ruben Ayala

SUBJECT: ONE-TIME PROPERTY TAX
REASSESSMENT EXCLUSION UPON
PURCHASE BY RESIDENTS/HOMEOWNERS
FROM NON-RESIDENT PARKOWNER

DEAR SENATORS,

Thank you for this opportunity to address you - I do not really understand why we are here - in 1987 SB-298 extended the 1989 sunset date to the new date of January 1, 1994, without all this opposition.

The Background Paper states the case eloquently, but I would like to add a few additional points and recommendation -

1. It has been the practice of most jurisdictions that have mobilhome communities, to include these communities in their inventory of affordable dwellings in their Housing Element of their General Plan. The extension of this existing provision would enable these jurisdictions to continue this practice.
2. This provision applies only to rental mobilhome communities which have been in operation for five (5) years or more.
3. There are many communities out there that are not for sale and probably never will be. Therefore, no sale - no reassessment - status quo remains.
4. The homeowners, by their voluntary investment in their community and the land on which their home is sited, would be preserving affordability and furthering the housing element of their jurisdiction. (Housing Element Sample Pages - At-#1)

All their lives these mobile homeowners have paid federal income taxes and most likely state income taxes as well. Maybe even city or county income taxes. If they owned property prior to retiring and moving into a mobilhome community, they paid a wagonload of dollars to city, county and state governments over the years.

Now that they only own their homes and pay a space occupancy fee for the land on which their home is sited, they are paying property taxes PLUS the 2% inflation factor, improvement bonds, sewer maintenance, weed abatement, special surcharges and other special assessments the local government can invent. Actually they graciously include these government imposed charges in their monthly space occupancy fee to the park owner, who then pays the money over to the government agency. When the taxes increase so does the space occupancy fee.

Now, add the state, county and city sales taxes they have paid over a lifetime and are now contributing to the community in which they live. Every time they purchase something from the grocery store, hardware store, department store, gas station or any other goods or services provider in the community, the cost of the manufacturers' or providers' taxes are passed along as part of the purchase price: Corporation taxes, sales taxes, excise taxes, property taxes, import duties, payroll taxes, income taxes, social security taxes, state unemployment taxes and who knows what else. This is a sizeable infusion of tax funds to the local economy that cannot be overlooked.

This isn't their only contribution to the community. The most successful and energetic senior citizen centers all have one thing in common: A LARGE NUMBER OF VOLUNTEERS. At these centers they do not just sit back and wait for things to happen, or for government to do something for them; they get out and make things happen!!!

Their enthusiasm is catching. It spreads to local officials, to local citizens and businesses, bringing everyone into the act. They also get involved in local politics and let their voices and needs be known. (Politicians usually listen when voters speak.) Mobilhome owners voting record is usually 93% to 95%.

Most mobilhome owners have a deep sense of self-respect, pride, independence and want to retain their dignity and not be dependent on government handouts and charity. (See attached list of services available - Attachment #2 and #4)

On the HCD Analysis (Background Paper Attachment #2) the number of homes total 1,779 (OneThousand-sevenhundred-seventy-nine). WHAT WOULD BE THE COST OF PRODUCING NEW REPLACEMENT UNITS OF COMPARABLE SIZE AND RENT? How would the unavailability of LAND and it's COST be addressed? WHAT IS THE COST to the local jurisdiction of just some of the services listed on Attachment #2 ? (See Attachment #3 - Supplement to Background Paper Attachment #2 Analysis)

RECOMMENDATIONS

1. Survey by Assessors to ascertain extent of alleged potential loss by jurisdiction. Also, total costs of all services that would be needed by those that would be economically evicted due to ever escalating space occupancy fees.
2. Review by Assessors of all listings of exemptions, particularly the statutory exclusions that are not subject to sunset provisions, and all others that are listed in Attachment #5 of the Background Paper. Calculate alleged potential gain by sunseting.
3. Protect mobilhome owners and ensure continuing Affordability to low and moderate income households by developing a program that includes, but is not limited to, the following components:
 - a. An estimate of the cost of maintaining the mobilhomes as affordable housing
 - b. An estimate of the total costs (including land) of producing new replacement units of comparable size and location
 - c. An inventory of all government financing and subsidy programs that could be used to help maintain affordability
 - d. An inventory of all public and private nonprofit organizations that have the legal and managerial capacity to acquire and manage affordable mobilhome communities.
 - e. Regulate the closure of mobilhome parks or cessation of use of the land as mobilhome parks by ensuring that fair and reasonable measures are provided to mitigate the adverse impact on the ability of the mobilhome owner to find alternative housing, without losing the equity in their existing home.

On behalf of our members, I respectfully request that the Committee vigorously pursue the extension of the existing tax provision, with clarifying amendments if necessary.

GSMOL is exceedingly grateful to Senator Craven and the Select Committee and their hardworking staff for all their efforts on behalf of our membership - all they want is a decent place to live that they can afford -

ECONOMIC INDEPENDENCE - NOT - ECONOMIC EVICTION

OBJECTIVE	1990 POLICY NO.	1987 POLICY NO.	PROGRAM	IMPLEMENTING SCHEDULE	COUNTY IMPLEMENTING DIVISION	TARGET FOR 1985-1990'	ACCOMPLISHED 1985-1990'	TARGET FOR 1990-1995
B. Protect Existing Affordable Housing from Conversion or Demolition	14.14	14.11	Prohibit Condominium Conversions	Ongoing Program	Planning	-- ⁶	Prohibition continued.	Maintain prohibition unless vacancy rate indicates easing of rental housing shortage.
	14.15	14.15	Prohibit Conversion or Demolition of Affordable Housing	Ongoing Program	Planning	Continue protections.	Continue protections.	Continue protections in the Coastal Zone. Extend protections to Non-Coastal areas. Improve administrative procedures for issuing demolition permits.
	14.16	--	Ensure Continuing Affordability of Affordable Housing Developments	Adopt program as amendment to Housing Chapter by January 1, 1992.	HCD/ Planning	--	--	Develop program to prevent conversion of affordable housing to market-rate housing or other uses.
	14.17	14.12	Provide Rent Subsidies to Lower Income Households	Ongoing Program	Housing Authority	100 rental subsidy certificates in use in unincorporated areas.	200 rental subsidy certificates in use in unincorporated areas.	200 rental subsidy certificates in use in unincorporated areas.
C. Protect Tenants of Affordable Housing from Overpayment and Displacement	14.18	14.16	Protect Mobilehome Park Tenants	Ongoing Program	Planning	Continue tenant protections and designate suitable mobilehome parks for exclusive mobilehome park use. (Colma Area Plan Policy 4.4)	Continued tenant protections to approximately 190 residents (70 units).	Continue tenant protections. Evaluate suitability of designating the 5 remaining mobilehome parks outside the Coastal Zone exclusively for affordable housing, including mobilehome park use (445 units).
	14.19	14.17	Provide Information, Referral and Mediation Services to Landlords and Tenants	Ongoing Program	Human Relations	Continue services to landlords and tenants.	Services continued.	Continue services to landlords and tenants.
II. Provide New Housing Opportunities	14.2	14.2	Ensure Sufficient Production of New Housing	Ongoing Program	Planning/ HCD	1,464 total (1,398 urban, 66 rural)	1,179 total (1,044 urban, 135 rural)	1,500 total (1,350 urban, 150 rural)

OBJECTIVE	1990 POLICY NO.		1987 POLICY NO.	PROGRAM	IMPLEMENTING SCHEDULE	COUNTY IMPLEMENTING DIVISION	TARGET FOR 1985-1990 ¹	ACCOMPLISHED 1985-1990 ²	TARGET FOR 1990-1995
	14.25	14.22		Permit Mobilehome Parks on Residentially Zoned Land	FY 1990-1991	Planning	Incorporate provisions into the Zoning Regulations to permit multi-unit developments using mobilehomes, modular homes and factory-built homes on residentially zoned lands.	These provisions were to be incorporated into the Zoning Regulations in conjunction with the comprehensive Zoning Regulations Revision Project. That project was not completed in the time frame anticipated.	Revise Zoning Regulations to permit mobilehome parks on residentially zoned land.
	14.26	14.23		Encourage Use of Surplus Public Lands for Affordable Housing	Ongoing Program	Planning/ HCD	Review available surplus lands for affordable housing development.	1) 8 lots in East Palo Alto - 8 units. 2) 1 site in East Palo Alto - 15 units.	1) 4 lots in East Palo Alto - 4 units. 2) 1 site in Pescadero - 30 units.
	14.27	14.36		Acquire Sites for Affordable Housing Development	Ongoing Program	HCD	2 sites	1 site	2 sites
C. Reduce Housing Construction and Energy Costs	14.28	14.24		Encourage Use of Alternative Housing Types and Flexible Site Design	Ongoing Program	Planning	--	The use of mobilehomes, modular homes and factory-built homes for one-family dwellings continues to be allowed. The use of flexible site designs in the Planned Unit Development district continues to be allowed.	Continue to allow alternative housing types and flexible site design.
	14.29	--		Minimize Permit Processing Fees	Ongoing Program	Planning	--	--	Continue to base fees on costs of permit processing. Discount fees for affordable housing developments.

SENIOR SERVICES

Adult day care. Hourly out-of-home day care to provide respite care or daily care when needed. This is a life-saver for a spouse who is tied down with taking care of his or her partner. It provides a chance to go shopping or enjoy a movie or some outside recreation without having to worry about the partner.

Adult family homes. Room and board in a licensed residential environment for the senior requiring some assistance with daily living tasks. For the single person who hasn't the resources or the inclination to go to a "nursing home."

Adult protective services/elder abuse. This provides investigation of abuse, neglect, exploitation or abandonment, and short-term emergency support to adults in need of protection.

Advocacy program. Volunteers provide assistance for low-income seniors to cut through red tape. They receive help with forms, applications and appeals plus advice on how to handle bureaucracy. Free civil legal services by volunteer attorneys are available to eligible, low-income clients. No child custody, criminal or litigation cases are accepted.

Alzheimer's support group. Provides counseling, information and support for families. Very important for those frustrated by an inability to get help.

Blind or unaided vision services. Offers a variety of services to blind of all ages. "Talking" books are featured as a part of this program.

Blood pressure checks. Free monitoring of blood pressure is provided by volunteers.

Chore and in-home care service. Assistance with household tasks, shopping, meal preparation, personal care and transportation to medical appointments. Sliding fees make it affordable and help keep folks out of expensive health-care institutions.

Clothing bank. Provides suitable clothing for senior citizens. Donations come from closets of well-off members of the community, so the quality of the clothing is very good.

Dental care access. This program provides low-income seniors with reduced cost dental care.

Educational opportunities. A variety of classes are available to seniors free or for a minimal fee. In addition to educational classes, classes such as aerobics, art, health and nutrition, water exercise and driver's ed are offered.

SENIOR SERVICES

Employment. A special program for seniors, with on-the-job training, part-time employment and job-search assistance.

Financial assistance. Information and support concerning Medicaid assistance for low-income seniors, Social Security problems and general financial assistance for low-income aged, disabled and/or blind individuals.

Food bank. Gives food to elderly in need or in emergency situations. Some of the food comes from government surplus commodities, some from donations by local businesses, the rest from community funds. USDA food surplus and donated food is distributed to needy low-income people.

Food stamps. Help in receiving coupons for expanding the ability to purchase food for low-income individuals.

Health care. Immunizations, screening for diabetes, hearing and blood pressure. A tuberculosis clinic and a low-cost program of foot-care clinics are located throughout the county. Financial assistance is available for those in need of a hearing aid.

Home delivered meals. Famous Meals-on-Wheels for home-bound seniors over 60. A donation of \$1.50 per meal is suggested, but only if the person can afford it. Care is taken not to embarrass those who cannot pay.

Home health care. Skilled nurses visit the home, as well as physical therapists. This is covered either by Medicare, Medicaid, private insurance, or on a sliding fee scale for low-income people.

Hospice program. Provides education and emotional support for the terminally ill and their families. In this case, Hospice works to enable the patient to stay in his or her own home.

Legal services. Free legal services to older persons regarding their civil rights, benefits, entitlements. Reduced fees for simple wills and community property agreements.

Low rent housing. In this particular town there were over 300 units, ranging from efficiencies to small houses, that were managed by the county Housing Authority. They were limited to low-income senior adults aged 62 or more or senior couples (at least one 62 or more). There was a waiting list for vacancies at the moment. Mortgage assistance was also available.

Medical equipment. Available for loan to eligible individuals.

Nutrition. Lunches for seniors served at noon Monday through Friday. The suggested donation of \$1.50 is not expected of those who cannot afford it. Also, as previously mentioned, hot

SENIOR SERVICES

meals are sent to home-bound seniors through the Meals-on-Wheels program.

Recreation. is provided at all of the senior centers in the area. Arts and crafts, card games, poker, dances and any number of recreational programs limited only by their imagination.

Transportation. Door-to-door transportation for eligible seniors takes them shopping, to libraries and on errands. Volunteers provide transportation to doctors' offices, therapy sessions and to hospitals.

There's More!

Other services we've found in some communities are:

Adapt-A-Senior program. Volunteers provide socialization and transportation assistance for those who are socially or geographically isolated and need assistance to meet daily living needs.

Companion program. Volunteers provide social contact and support for elderly persons who show signs of confusion or weakness. Services as shopping, visiting, running errands and brief respite are available.

Guardianship Program. Provides advocacy services for those who are no longer able to make decisions or access essential services for themselves.

Emergency rent assistance. Provides help for low income elderly when an eviction notice has been served and when all other state and local resources have been exhausted.

Energy assistance. This program informs seniors about utility discounts and rebates to which they are entitled, and administrators a federally funded program designed to assist low income households during the winter months. Helps pay heating bills and assists homebound in completing applications.

Senior travel club. Day trips, overnight getaways and longer excursions are provided at very low cost.

Telephone reassurance program. Provides regular connections with a volunteer caller, who talks with home-bound seniors at pre-arranged daily times. This helps many invalids live independently, and gives them confidence that someone in the community cares about their well-being. There are no fees for this service.

Transportation services. Some communities have wheelchair lift vans available by appointment for door to door transportation. Buses and vans running fixed routes to hospitals, clinics, dialysis services and other medical facilities are also common. Another aid is door-to-door escort service for trips to doctors, shopping and other necessary trips.

SUPPLEMENT TO BACKGROUND PAPER - ATTACHMENT #2 HCD ANALYSIS

[illegible]

COUNTY	TOTAL PARKS	TOTAL SPACES	CONVERSIONS Parks-Spaces	PUD/SUBDIVISION (original)
MENDOCINO	101	4,398	1-71	Ø
ORANGE	237	33,368	5-1,046	Ø
RIVERSIDE	374	46,933	3-356	38
SACRAMENTO	129	13,986	1-185	3
SAN DIEGO	436	46,189	15-3,234	16
SAN LUIS OBISPO	123	9,378	6-840	3
SANTA BARBARA	74	7,971	4-153	1
SANTA CRUZ	93	7,314	6-479	2

Officials scrambling for money

Cities, counties resorting to taxing without voter OK

By J.P. TREMBLAY

UNION CAPITOL BUREAU

City and county officials are frantically seeking new sources of money as the state considers taking nearly \$1 billion from local governments to help balance its budget.

One of the more attractive methods may be the myriad of special districts and assessment areas over which local governments have jurisdiction.

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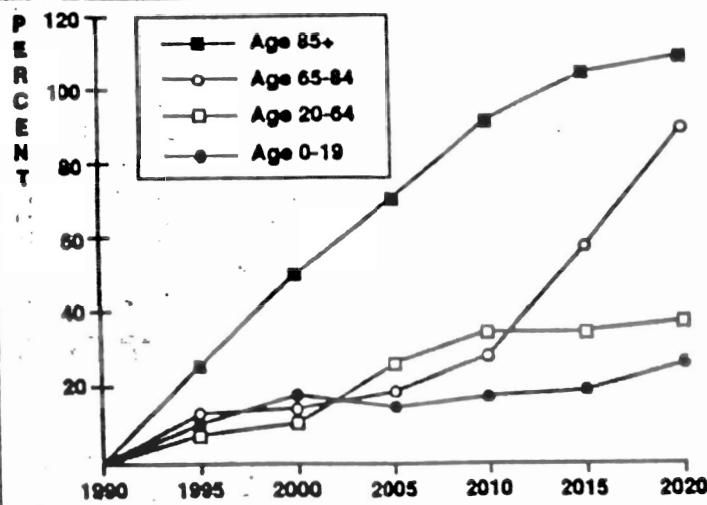
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Editorial Page Editor

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Controller

California projected population growth: 1990-2020

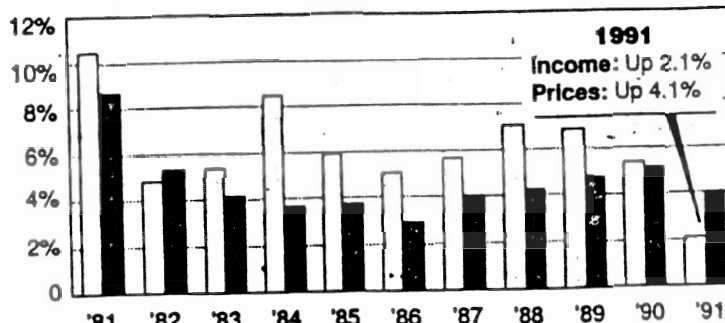


Source: California Department of Finance

Personal income falls behind prices

Annual growth, in percent

□ Per-capita income ■ Price index for personal consumption*



*Personal consumption expenditures fixed-weighted price index, base 1987
SOURCE: Commerce Department

Benefit programs and the deficit

Entitlement programs, which account for 50 percent of federal spending, lie at the root of today's \$300-billion-plus annual deficits.

Top 10 programs

in billions of dollars

Program	Fiscal 1992 outlays*	Percent of total entitlements
Social security	\$285	40.2%
Medicare	128	18.1
Medicaid grants to states	68	9.6
Civil service retirement and disability	34	4.9
Unemployment compensation	33	4.6
Military retirement	24	3.4
Food stamps**	22	3.2
Supplemental security income	16	2.3
Veteran's compensation and pensions	16	2.3
Family support payments to states***	15	2.1
Commodity credit corporation	12	1.7
Earned income tax credit	7	0.9
State child nutrition payments	6	0.9
Railroad retirement	4	0.6
Annuity payments, employees health benefit payments	4	0.5

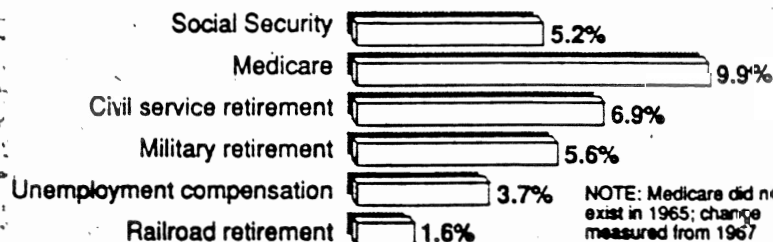
*Mandatory spending only

** Includes \$1 billion for nutrition assistance to Puerto Rico

***Includes Aid to Families with Dependent Children; payments to states for AFDC work programs not included

How quickly benefit programs have grown

Average annual percent change, 1965-1991, in constant dollars



NOTE: Medicare did not exist in 1965; change measured from 1967

SOURCE: Congressional Research Service

J.M. Swagart
P.O. Box 202
San Carlos, CA 94070

ATTACHMENT #4

L.A. mobile home parks surface as secret source of security for residential investors

BY SUZANE BRICKER
Staff Reporter

The safest investment in Southern California is also one of the best kept secrets, say many real estate experts who tout the benefits of mobile home parks.

With values on residential property slipping, investors are looking to hedge their bets by placing money in a financially secure product that will provide stable returns. Some say a mobile home park is the safest way to meet investment demands, promising returns as high as 20 percent for the first 5 years.

"It acts like a bond," said R.J. Brandes, president of Belgravia Capital, an Irvine-based lender that provides \$75 million to \$100 million a year in mobile home financing. "It is stable and there are not any significant problems in downturn."

The biggest problem from an investor's point of view is finding a park to buy. A significant number of the estimated 972 mobile home parks in Los Angeles County are family-owned. Few trade very often and when they do, they are often purchased in a joint venture by tenants. In cases where the parks are independently owned, the tenant often acts in partnership with the lender who has a vested interest in making sure the park is maintained.

It is easier to secure financing on mobile home parks — which typically have an occupancy of 99 percent — than hotels or shopping centers, Brandes said. But investors have shied away from the parks, due to their negative image as low income housing, said David Young, senior vice president for ITT Federal Savings Bank, a lender on mobile home parks.

Yet this same perception may serve as a big advantage to investors, because the

income potential is great on a lower cost form of housing that is constantly in high demand. With the cost of single-family homes pricing people out of the market, home owners are seeing these parks as a more affordable option.

Institutions that have been burned in office properties represent another emerging group of investors, said Julie Ambler, president of Ambler Group Ltd., a mortgage lending company based in Beverly Hills. Some are looking to invest in urban areas where existing development limits competition. Others prefer vacant properties to avoid the problems of servicing tenants.

A park located near the water tends to be commercially zoned and the investor could pay less than the actual land value. Historically the parks were purchased for conversion of the land into a shopping center or office park. But this process could take 10 years and does not provide the highest potential yields, Ambler said.

Tenants have also recognized the risks associated with potential buyouts. Efforts to force out seniors and other groups living on fixed incomes paved the way for the first rent control reforms.

These reforms benefited the tenant by placing a cap on their housing costs. If the rents were allowed to rise too fast, the value of the mobile home declined. But if land values were allowed to appreciate at a more rapid rate, the tenant was more likely to realize a gain from the sale of his property.

This is because the value of the mobile home is tied to into the land, Ambler said. Those in the Malibu area can trade for \$100,000 or more. Tenants pay their rents or risk having their coach moved, which

could automatically devalue their investment by 50 percent. The possible risk of collateral value also concerns the lender.

Restrictions on the removal of tenants made it more difficult to transform the parks into other types of investment. Typically, parks are between 100 and 200 spaces and range in value between \$2 million and \$7 million. A 30- to 40-percent downpayment and initially low yield of 7-8 percent, limits the opportunities for immediate returns. Still, interested investors are prepared to pay more for their returns, recognizing their investment will appreciate over time. Higher occupancy rates mean less chance of defaulting on loans, an attractive feature to lenders.

And the demand for mobile home lots, which has increased with the lull in the housing market, puts the land at a premium when it sells.

Cities, which discouraged parks from being built in the in the 1970s, now see them as an effective way to meet affordable housing needs.

Still the number remains small and selection limited. There are 972 parks in Los Angeles County, according to a 1991 tally by the county assessor's office. These properties are valued at \$630.3 million. A total of 119 parks, valued at \$79.5 million, are located inside city limits. The City of Long Beach ranks third on the county assessor's list, with a total number of 20 parks assessed at \$14.5 million.

The size of the capital outlay makes mobile parks attractive to individuals as opposed to large groups of investors. And typically they are perceived as hands-on operations that require a great deal of individual attention.

An owner's relationship with tenants could be crucial to the long-term outcome of the investment. In California, due to the decreasing supply of land, a coach is likely to stay on the same location for up to 30 years.

(JOHN DUPRIEST HANDOUT)

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CALIFORNIA MHP SALES										
Impact of Re-Assessment										
Dec 1, 1992										
	PARK/COUNTY	SPACES	PRE-SALE AVER RENT	PRE-SALE PROP TAX	EST NEW PROP TAX	DIFFERENCE IN PROP TAX	ADDITIONAL COST PER SPACE/MO	% INCREASE OF MO COST	COUNTY PROP TAX REVENUE	% LOSS TO COUNTY
	Ponderosa Pines	139	345	20,122	57,187	\$37,065	\$22.22	6.44%		Unknown
	Nevada									
	Shorecliffs	189	520	38,000	127,280	\$89,280	\$39.37	7.57%	\$1,602,802.813	0.0056%
	Orange									
	Diamond K	317	343	49,036	155,250	\$106,214	\$27.92	8.14%	\$41,822.652	0.2540%
	placer									
	Golf Greens	185	270	20,321	57,500	\$37,179	\$16.75	6.20%	\$177,900,000	0.0209%
	Sacramento									

Rev 12/7/92



City of San Marcos

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619/744-4020 FAX 619/744-7543

December 1, 1992

Senator Bill Craven
2121 Palomar Airport Road, Suite 100
Carlsbad, CA 92008

Re: Senate Select Committee on Mobilehomes
Property Tax Freeze

Dear Senator Craven:

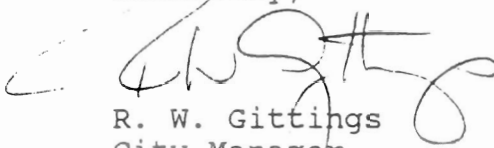
This letter is to indicate the City of San Marcos' strongest support for an extension of the existing tax provision which freezes property tax on mobilehome parks converted to resident ownership.

We understand SB 1312, which died in the Senate Revenue and Taxation Committee, would have extended the sunset provision from December of 1993 to January, 2000, but we believe it is in the long term best interest of the State, as well as the City to extend the existing tax provision to help provide incentives for the conversion of rental parks to resident ownership parks.

This will greatly enhance the ability of cities in the State we are required to provide affordable housing market to fulfill that unfunded State mandate.

We would strongly encourage the Senate Select Committee on Mobilehomes to seriously consider and recommend a continuation of the existing tax provision as an incentive to resident ownership and to maintain affordable housing units within the State of California.

Sincerely,


R. W. Gittings
City Manager

RWG:sv

cc: City Council



County of San Diego

JOHN MACDONALD
SUPERVISOR, FIFTH DISTRICT
(619) 531-5555

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

December 4, 1992

Honorable Bill Craven
Senator, 38th District
State Capitol, Room 3070
Sacramento, CA 95814

Bill
Dear ~~Senator Craven~~:

I recently received your news release announcing the hearing on property tax when mobilehome parks are converted to resident ownership.

Since the time I first became aware of the uniqueness of living in a mobilehome park, I have been supportive of assisting residents in the purchase of their parks. Therefore, I am definitely supportive of extending the tax provision that makes it possible to continue an existing tax rate at the time parks are converted to resident ownership. The consequences of no longer having this affordable housing stock, far outweighs the increase in property tax revenue.

I appreciate the information that I receive concerning your committee's hearings.

Sincerely,

John
John MacDonald
Supervisor, Fifth District

JMD/la

- 66 -

JOSHUA SPRINGS PARK

RESIDENT OWNED MOBILE HOME PARK, INCORPORATED

December 1, 1992

Select Committee on Mobile Homes
Room 3191 California State Capitol
Sacramento, California

Attention: Senator Bill Craven

Dear Senator Craven:

The upcoming meeting on December 8th regarding expiration of the R.O.P. property tax exemption has caused deep concern to all of us here at Joshua Springs Mobile Home Park.

We have 105 spaces, all low cost, affordable housing. This is an Adult 55 or over park and was purchased four years ago. Almost all of our residents are on fixed incomes, i.e. Social Security, pensions, disability, etc. Not more than two or three are wage earners. We currently pay over \$26,000 annually for 15 acres of desert. Any increase in property taxes to our residents would become a hardship.

Our understanding was that the tax freeze was really a tax exemption, permanent in nature, given as an incentive for us to buy our park.

We hope you will consider making the tax freeze permanent.

Sincerely,

JOSHUA SPRINGS MOBILE HOME PARK

By: Claudette M. Miller
President

G.S.M.O.L. Chapter #1595

Bill Craven
President

WU/max

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