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April 17, 2009

Wayne Lusvardi
Pasadena, California

Dear Mr. Lusvardi,

Thank you very much for your letter to the Governor's Commission on the 21st Century Economy, of which I am a member. Your letter is most informative and thoughtful.

While I am not inclined to seek changes in Proposition 13 of any kind, I would like your thoughts on a statutory change that is of interest to me and at least some other members of the Commission.

As you know, Proposition 13 recognizes only one category of property tax payers. There is no distinction in the Article XIII A regarding residential, commercial, or other land use categories. The nutshell version of Proposition 13, in my view is this: All property was frozen as to its assessed value at a date prior to Proposition 13; a one per centum ad valorem tax would pertain to all real property, and that rate could only be increased by a 2/3'rds vote of the electorate; the assessed valuation could not exceed either the actual increase in value or 2%, whichever is less; and, reassessment to, essentially, market value would only take place upon a triggering event (a sale or capital improvement).

The issue that has arisen at the Commission is whether or not certain "sales" of non-residential property are currently included in the statutory definition of what constitutes a triggering event sale. The Commission has received testimony from the California Assessors Association as well as the Board of Equalization that demonstrates that certain sales currently escape reassessment because they are changes of ownership of the corporation that owns the property. For a good characterization of this situation, please refer to the Commission's website (cotce.ca.gov), April 10, 2009 meeting, "A Split Property Tax Roll: A Brief Summary of Legal and Administrative Considerations, Richard S. Moon, Board of Equalization. Pages 15, 16, and 17 of Mr. Moon's presentation diagrams the issue.

My question is this: Do you think that all sales should be treated equally under Proposition 13, regardless of type of ownership? Or do you think that type of ownership plays a legal and constitutional role in determining whether or not a triggering event has taken place?

To disclose my position on this, I believe that there is only one category of property tax payer contemplated in Proposition 13, and a sale is a sale, is a sale, is a sale. While people may have differing opinions regarding ease of administration, potential lost revenue, or personal preference about when their particular property should be subject to the triggering of a reassessment, I don't find any language in Proposition 13 to support such theories.

Your thoughts on this matter would be of interest to me, and, I suspect, to the Commission.

Again, thank you for your very thoughtful and comprehensive letter.

Sincerely,

FRED KEELEY
Treasurer
County of Santa Cruz

Commissioner
Governor's Commission on the 21st Century Economy