



170.0055

STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

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*Controller*, Sacramento

April 11, 1995

REDACTED TEXT

BURTON W. OLIVER  
*Executive Director*

Re: REDACTED TEXT  
State Tax Lien –REDACTED TEXT  
Account No. REDACTED TEXT

Dear REDACTED TEXT:

This office has been asked to respond to your letter dated March 17, 1995 to Dennis Arney of the Board’s San Diego office. You questioned the propriety of the Board’s recordation of Lien No. REDACTED TEXT.

On July 12, 1990, the Board recorded a Notice of State Tax Lien in the San Diego County Recorder’s office for a liability incurred by taxpayers REDACTED TEXT (Lien Number REDACTED TEXT). As of the time of recordation, this lien attached to real property owned by REDACTED TEXT at REDACTED TEXT, California.

On September 25, 1990, REDACTED TEXT recorded a quitclaim deed transferring this property to REDACTED TEXT, as his separate property. When real property encumbered by a duly recorded lien is transferred, the transferee is charged with constructive knowledge of the encumbrance and takes title to the property subject to the lien, not as a bona fide purchaser (see Federal Deposit Ins. Corp. v. Charlton (1993) 17 Cal.App.4th 1066).

Government Code section 7170(b) provides:

“A state tax lien is not valid as to real property against the right, title, or interest of any of the following persons where the person’s right, title, or interest was acquired or perfected prior to recording of the notice of state tax lien in the office of the county recorder of the county in which the real property is located pursuant to section 7171:

“(1) A successor in interest of the taxpayer without knowledge of the lien ....”

Lien Number REDACTED TEXT serves to place future potential purchasers or encumberers of the property located at REDACTED TEXT that the Board has a lien on this property.

Government Code Section 27281.5(a) provides:

“Any restriction imposed upon real property on or after January 1, 1982, which restricts either the ability of the owner of real property to convey the real property or the owner of a proprietary leasehold interest to convey such interest and which is imposed by a municipal or governmental entity on real property or a proprietary leasehold interest which is not owned by the municipal or governmental entity, shall be specifically set forth in a recorded document which particularly describes the real property restricted in order to impart constructive notice of the restriction, or shall be referenced in a recorded document which particularly describes the real property restricted and which refers by page and book number to a separately recorded document in which the restriction is set forth in full.”

It is our opinion that Lien Number REDACTED TEXT complies with applicable law and is specifically designed to give constructive notice of the Board’s lien to potential purchasers or encumberers. We do not believe that Lien Number REDACTED TEXT implies that REDACTED TEXT has a personal outstanding tax liability to the Board. However, the Board will cooperate in providing information to potential creditors of Mr. REDACTED TEXT as to whether he owes any tax to the Board.

Very truly yours,

Thomas Cooke  
Staff Counsel

TJC:plh

cc: Mr. Rick Slater (MIC:55)  
San Diego District Administrator (FH)