

OFFICE OF THE ATTORNEY GENERAL OF CALIFORNIA

Opinion No. CV 78-127

62 Op. Atty Gen. Cal. 147

March 30, 1979

SYLLABUS:

[\*1]

ASSIGNMENT OF PARCEL NUMBERS

Where real property has been assigned two parcel numbers on the county assessment roll by the county assessor for purposes of administrative convenience, the owner of the real property may not rely upon such administrative action, for purposes of the Subdivision Map Act, in the proposed sale of one of the parcels.

OPINION BY: GEORGE DEUKMEJIAN, Attorney General (Rodney Lilyquist, Jr., Deputy)

OPINION: Requested by: DISTRICT ATTORNEY, CALAVERAS COUNTY

The Honorable Joseph P. Kiley, District Attorney of Calaveras County, has requested an opinion on the following question:

Where a single unit of real property has been assigned two separate parcel numbers on the county assessment roll by the county assessor for purposes of administrative convenience, may the property owner for purposes of the Subdivision Map Act rely upon such administrative action in the proposed sale of one of the areas given a separate parcel number?

The conclusion is:

Where a single unit of real property has been assigned two separate parcel numbers on the county assessment roll by the county assessor for purposes of administrative convenience, the property owner for purposes of the Subdivision Map [\*2] Act may not rely upon such administrative action in the proposed sale of one of the areas given a separate parcel number.

ANALYSIS

We are informed that for purposes of administrative convenience, county assessors occasionally assign separate parcel numbers to real property owned by a single owner. For example, separate parcel numbers may be assigned on the county assessment roll if the property is located in two tax code areas, thus facilitating the tax collector's billing procedure. Also, separate parcel numbers may be assigned to real property located on two different pages of the assessor's maps.

After such administrative action, the property owner will appear to have two separate parcels of real property according to the county assessment roll. If he proposes to sell one of the areas given a separate parcel number, the question arises as to whether compliance with the provisions of the Subdivision Map

Act (Gov. Code, @@ 66410-66499.37) n1 (hereinafter "Act") would be necessary. We conclude that since the assessor's administrative action is not undertaken in administration of the Act, the owner may not rely thereon in order to avoid the Act's otherwise applicable requirements. [\*3]

n1

All unidentified section references hereinafter refer to the Government Code.

The Act has been in substantially the same format since 1943. Its fundamental purposes are to facilitate orderly community development and to protect the buying public from exploitation. (Bright v. Board of Supervisors (1977) 66 Cal. App. 3d 191, 195-196; Pratt v. Adams (1964) 229 Cal. App. 2d 602, 606; 61 Ops. Cal. Atty. Gen. 299, 300-301 (1978).) The Act accomplishes these purposes by requiring a subdivider to obtain local government approval of a subdivision map before the subdivided parcels may be offered for sale or lease. Generally speaking, the filing of a tentative and final map is required for divisions into five parcels or more, while the filing of a parcel map is required for divisions into four parcels or less. n2 ( @@ 66426, 66428; 4 Miller & Starr, Current Law of California Real Estate (1977) @@ 24:33-24:35, pp. 60-68; 9 Hagman & Volpert, California Real Estate Law Practice (1977) @@ 290.20-290.24, pp. 290:12-290:35.)

n2

For purposes of our discussion, we will assume that a parcel map is not waived by local ordinance under the provisions of section 66428. [\*4]

In the circumstances presented, the real property has been assigned two separate parcel numbers on the county assessment roll by administrative action and without the participation or effort of the property owner. Whether the filing of a parcel map is required of the owner before one of the areas given a separate parcel number may be sold depends upon the proper construction of several specific provisions of the Act.

The principal enforcement statute of the Act is section 66499.30. With certain exceptions not relevant to our discussion, it provides:

"... No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon... or allow occupancy thereof, for which a parcel map is required by this division or local ordinance, until such map thereof in full compliance with the provisions of this division and any local ordinance has been filed for record by the recorder of the county in which any portion of the subdivision is located." ( @ 66499.30, subd. (b).) n3

n3

Subdivision (a) of section 66499.30 contains similar language concerning situations requiring the filing of a final map.

Parcel [\*5] maps and final maps, again with certain exceptions not relevant here, are required for all "subdivisions" as defined under the Act. ( @@ 66426, 66428.) Section 66424 provides in pertinent part:

"'Subdivision' means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future...."

If the administrative actions of an assessor could be relied upon by a landowner in the circumstances under consideration, it could be argued that a proper "division" by the owner and its attendant submission of a map and approval by the proper local agency would be unnecessary to sell one of the areas given a separate parcel number by the assessor. Such an occurrence, however, would remove local planning control over the development of the property and thereby frustrate the very purposes of the Act. We do not believe that the legislative intent behind the statutory scheme should be sacrificed due to the size of the pages of the assessor's maps or other considerations unrelated to the Act's provisions [\*6] and purposes.

We have previously analyzed a similar situation in which the county assessor combined (rather than split) parcels on the county assessment roll for purposes of administrative convenience. (59 Ops. Cal. Atty. Gen. 581 (1976).) After noting that an assessor's function is "to raise revenue and not to regulate the division of land" and that he "will quite often combine or renumber parcels for valid reasons entirely separate from the purpose of the Subdivision Map Act," we concluded that such administrative actions should have no bearing on the requirements of the Act. (Id., at p. 583.)

Because a "subdivision" under section 66424 thus may not be caused by the purely administrative actions of the assessor, n4 the subsequent sale of a portion of the property by the owner would require such a statutory division. Accordingly, a parcel map would be necessary under section 66428; without the filing of such a map, the sale would be prohibited under the provisions of section 66499.30, subdivision (b).

n4

The general provisions of section 66424.2 would be inapplicable to the areas given separate parcel numbers by the assessor since the parcels (1) would not have been created under the provisions of the Act and (2) would be subject to such provisions at the time of their creation. [\*7]

The conclusion to the question presented, therefore, is that where real property has been assigned two parcel numbers on the county assessment roll by the county assessor for purposes of administrative convenience, the owner for purposes of the Act may not rely upon such administrative action in the proposed sale of one of the areas given a separate parcel number.