

Scenario:

The Golden Gate Fields property consists of approximately 100 acres in Albany and approximately 40 acres in Berkeley. The Stronach Group (TSG) is the developer and land owner, although title is under Golden Gate Land Holdings LLC., and has been through various corporate restructurings over the years.

TSG is exploring the following scenario for the development, ownership, and lease of the property:

- TSG will continue to own all of the property.
- TSG will develop up to 2 million square feet of buildings, in phases, to be used by Lawrence Berkeley National Laboratory (LBNL) for office space, laboratories, parking, and related uses.
- Upon completion of the buildings and facilities designated for use by LBNL, the University of California (UC) will purchase the buildings from the Stronach Group.
- UC will lease the buildings and facilities to LBNL. At the same time, TSG will lease the land under the buildings and a designated perimeter around the buildings to the University. It is expected that UC will also lease the perimeter area to LBNL.
- Currently, LBNL anticipates that the majority of its funding will be obtained from the US Dept of Energy.
- LBNL will be fully located in Albany
- TSG will develop other buildings and facilities on the property that will have commercial lab, office space, hotel, retail, and residential uses. The ownership and/or lease arrangements of the other buildings is unknown at this time.
- TSG will designate an area for public open space. It is the City's understanding that TSG's current thinking is that this open space will be developed, owned, and maintained by TSG. Since much of the open space is adjacent Eastshore State Park, there is the possibility for public ownership, operations and/or maintenance for some or all of this area.

9/29/11

Response to City of Albany on Potential Golden Gate Fields(GGF)/ Lawrence Berkeley National Laboratory(LBNL) Development

This response is based solely on the scenario as stated. Any change in the scenario could invalidate the response.

Question #1: Assuming the framework for development is as stated above, how/what would the Assessor's Office determine the tax obligations to be?

Answer #1, Part I: All property owned by GGF or any non exempt entity would be assessable under the proposed scenario. The improvements owned by the University of California would be considered as Improvements on Leased Land and statutorily exempt.

Question #1, Part II: Is there any lease, ownership or other framework under which the land or buildings that the University or LBNL occupy could be partially or fully taxable?

Answer #1, Part II: The land leased to the University of California would be taxable since the exempt Agency does not own it. If LBNL leases the buildings or land from the University of California the buildings and/or land they lease would be valued under the Possessory Interest provisions and enrolled on the unsecured roll. LBNL would be assessable unless they applied and qualified for a full or partial exemption.

Question #1, Part III: Is lease term length a factor?

Answer #1, Part III: If over 35 yrs on the land, that lease would be considered an assessable event. On the Possessory Interest portion, the lease term would only affect the capitalization term used in the Possessory Interest appraisal process.

Question #2: What if LBNL or the University uses any portion of the facilities it leases or owns for commercial purposes?

Answer #2: If LBNL subleases any of their space to a private concern, no new account would be created since the space is already being assessed under the master lease for a possessory interest. If the University leases property that was not included in the LBNL leased Possessory Interest, that may constitute a new Possessory Interest to the lessee.

Question #3: Is there any mechanism that the City or AUSD can employ to prevent property from being removed from the tax rolls? Is there a mechanism that the property owner can employ to continue taxation on the property?

Answer #3: No. If a property is statutorily exempt by law or qualifies for a different type of exemption we must recognize that and either assess at a zero value or a value that is in accord with the type of exemption for which they qualify.

Question #4, Part I: What are the tax ramifications of designating public open space?

Answer #4, Part I: If the open space remains in the developer's name, it will remain taxable. The land may be assessed at a lower value since it is not a buildable site. If the open space is covered in CCR's that designate it as a common area such that all the occupants own their percentage of it, the value may be zero because part of the common area value is included in the purchase price or value of the individual parcels.

Question #4, Part II: How can the City and AUSD ensure that the land owner will continue to pay current and future ad valorem, parcel taxes, and special assessments on the public open space?

Answer #4, Part II: As long as the open space is in the developer's or a private individual's name and not a common area or space accepted by a exempt agency, the owner would be responsible for the taxes.

Question #5: Are you aware of what might be alternatives for structuring developer, land owner, or non-taxed entity payment of current and future taxes and tax rates?

Answer #5: No. This is out of our area of expertise. You may have to contact the Tax Collector or Auditor's Office for this.

Question #6, Part I: Are there any parcel taxes or special assessments that the property owner, developer and/or University/Lab can be required to continue to pay.

Answer #6, Part I: This is out of our area of expertise. You may have to contact the Tax Collector or Auditor's Office for this.

Question #6, Part II: Are you aware whether other public agencies like cities and school districts have negotiated payment agreement in situations where the property owner or owner of improvements negotiated payment by agreement in situations where the property owner were not obligated under the tax laws to pay?

Answer #6, Part II: No.

Question #7: Does your office have any insights as to whether the City's property transfer tax ordinance requires tax payments associated with the lease of the land or sale of the buildings to the University/Lab? For example, if the tax is imposed on both parties to the transaction and one party is a tax exempt entity, is your office aware of any reason why the City cannot require the private owner (seller) to pay its transfer tax?

Answer #7: This would be better directed to the Clerk Recorder's Office.