



COUNTY OF EL DORADO

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January 2, 2018

On December 5th, 2017, the El Dorado County Board of Supervisors adopted an ordinance repealing Prop 90 effective November 7th, 2018. The ordinance contained the following provisions:

- 1) El Dorado County will not accept base year transfer applications for replacement principle residences acquired after November 7th, 2018.
- 2) Qualifying replacement principle residences acquired before November 7th, 2018 applies to any purchased replacement dwelling, including properties in escrow for purchase at the time of the expiration of the ordinance.
- 3) Qualifying replacement principle residences also include dwellings for which new construction commences prior to November 7th, 2018. Commencement of construction is defined by Property Tax Rule 463.500(c)(3) as follows – *“Commencement of construction” means the performance of physical activities on the property which results in changes which are visible to any person inspecting the site and are recognizable as the initial steps for the preparation of land or the installation of improvements or fixtures. Such activities include clearing and grading land, layout of foundations, excavation of foundation footing, fencing the site, or installation of temporary structures. Such activities also include the severance of existing improvements or fixtures. “Commencement of construction” does not include activities preparatory to actual construction such as obtaining architect services, preparing plans and specifications, obtaining building permits or zoning variances or filing subdivision maps or environmental impact reports. “Commencement of construction” shall be determined solely on the basis of activities which occur and are apparent on the property undergoing new construction. Where several parcels are adjacent and will be used as a single unit by the builder for the construction project, the commencement of construction shall be determined on the basis of the activities which occur on any part of the several parcels comprising the unit. Where a property has been subdivided into separate lots, the commencement of construction shall be determined on the basis of the activities occurring on each separate lot. Where the property has been subdivided into separate lots and several or all of those lots will be used as a single unit by the builder for the construction project, the commencement of construction shall be determined on the basis of the activities which occur on any part of the several parcels comprising the unit.”*
- 4) For purposes of this ordinance, replacement residences in escrow or under construction on November 7, 2018 are treated as purchased and occupied on that date. That is also the start of the two year period for the sale of the original residence, if escrow has not closed or a final has not been issued.

In addition to the above provisions, all claims for transfer must meet all of the requirements as set forth in §69.5. (Transfer of base year value to replacement dwelling).

Examples of sales transactions: (All examples assume that the other requirements relating to age, value and principle residence are met)

Scenario	Response
Both the sale of the original principle residence and the purchase and occupation of the replacement principle residence occur prior to November 7 th , 2018.	The transfer would qualify
The qualifying replacement is purchased prior to November 7 th , 2018. The original residence is sold by November 7 th , 2020.	The transfer would qualify
The original principle residence is sold prior to November 7 th , 2018. The replacement residence is in escrow for purchase on November 7 th , 2018. Escrow closes in December 2018 and a claim is immediately filed for transfer.	The transfer would qualify because the ordinance specifically includes the replacement property in escrow at the expiration of the ordinance. "In escrow" will be established by the date of the signatures on the purchase agreement or other documents.
The replacement residence is in escrow for purchase on November 7 th , 2018. Escrow closes December 2018. The original principle residence is sold prior to November 7 th , 2020.	The transfer would qualify because §69.5 (b)(5) requires the original residence to be sold within two years of the acquisition of the replacement. The date the ordinance expires is the last qualifying day the Assessor will use to measure the two year period for the sale of the original residence.
The replacement residence is in escrow for purchase on November 7 th , 2018. Escrow closes December 15, 2018. The original principle residence is sold on December 12 th , 2020.	The transfer would not qualify because the original did not sell within two years of the expiration of the ordinance
The original principle residence is sold prior to November 7 th 2018. The replacement is purchased and occupied prior to November 7 th 2020.	The transfer would not qualify because the replacement was not acquired prior to the expiration of the ordinance.
The replacement residence is in escrow on November 7 th , 2018. The purchase falls out of escrow. Another residence is purchased and occupied as the principle residence.	The transfer would not qualify because the replacement residence was not in escrow at the expiration of the ordinance.

Examples of new construction transactions:

Scenario	Response
Both the sale of the original principle residence and the newly constructed and occupation of the replacement principle residence occur prior to November 7 th , 2018.	The transfer would qualify.
The qualifying replacement is newly constructed prior to November 7 th , 2018. The original residence is sold by November 7 th , 2020.	The transfer would qualify
The original principle residence is sold prior to November 7 th , 2018. The newly constructed replacement residence starts actual construction on November 7 th , 2018. The replacement finals in April 2019 and a claim is immediately filed for transfer.	The transfer would qualify because the ordinance specifically includes property in that has commenced construction at the expiration of the ordinance.
The new construction for the replacement residence is commenced on November 7 th , 2018. Escrow closes December 2018. The original principle residence is sold prior to November 7 th , 2020.	The transfer would qualify because §69.5 (b)(5) requires the original residence to be sold within two years of the acquisition of the replacement. The date the ordinance expires is the last qualifying day the Assessor will use to measure the two year period for the sale of the original residence.
The replacement residence has commenced construction on November 7 th , 2018. A final is issued on May 15 th , 2019. The original principle the residence is sold on December 15 th 2020.	The transfer would not qualify because the original did not sell within two years of the day the two year clock started (November 7 th , 2018) for the sale of the original,
The original principle residence is sold prior to November 7 th 2018. The replacement is newly constructed and occupied prior to November 7 th 2020.	The transfer would not qualify because the replacement was not acquired prior to the expiration of the ordinance.
The replacement residence is under construction on November 7 th , 2018. The original residence is sold prior to November 7 th 2020. The newly constructed residence gets a final on November 8 th 2020, however the residence has been occupied for three months.	The transfer would qualify because the qualifying replacement was occupied as the principle residence within two years of the expiration of the ordinance.