By Phil Hunt

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Q: My friend lost her husband and is considering selling her home and moving to a smaller place in Oakland. Her house is in Union City and is worth about $425,000; she could net about $400,000 from the sale after expenses. She needs to pay cash for the new property and have money left over because she is unable to work and is about 10 years from being eligible for social security.

There are new townhouses near BART in Hayward for about $350,000. This would be a great location for her because she does not drive. However, we think they may be a little too expensive. She would really like to live in China Town in Oakland but the prices there are almost $400,000. Since she needs to sell before she buys, what do you suggest she do? Also, can she move her Prop. 13 taxes to the new residence?

A: Your question indicates that you have already spent time thinking about her problem. One of the problems that all people face when they have decided to move is the replacement property. I have found that the best way to do this is to do both simultaneously, list yours for sale and look for the new property at the same time.

She can list her property with a contingency that states: If she has not found the property she wants, she can delay the close of escrow (COE) or she can withdraw from the contract and give the buyers their deposit money back.

If it would so happen that her property sells before she finds a suitable replacement property, she can opt to go ahead with the close of escrow and find a rental property to move into temporarily until she finds just the right property. This means a double move, and some don't like that idea.

It is also possible to delay the COE for a period of time with the buyer's approval. And, another possibility is to rent the property back from the buyers for a time and remain in the property until she finds the replacement property. This would have to be with the buyers' approval and for a short period of time, like maybe 30 to 60 days.

As for the location of her replacement property, only she knows where she really wants to live. The good news is that if she stays within Alameda County, she can take her tax base with her, provided she follows the rules: The replacement property must have a lower value than the one she sold and it must be purchased within a year after she sells her present home.

There is a provision that if she purchases from one year to two years later, the replacement property can be valued 5 percent over the sold property and 10 percent over if in the second to third year after the sale.

Caution: None of this Prop. 13 carry forward is automatic. You will be assessed the full amount of taxes upon COE. To get the “carry forward” privilege, you must apply for it with the county assessor’s office.

Something to remember: The county assessor does not care what the amount on the sales agreement of the one you sold or the price on the Purchase Agreement on the one she bought. They will decide on their own if the one you bought has a value less than the one she sold.

If they decide that the replacement property has a value more than the sold property, they will undoubtedly deny the Prop. 13 carry forward request and she will have to continue to pay the full tax based on the assessed value.

There is also a supplemental tax assessed on the property purchased which is paid by the new owner. This is the difference between the old taxes and the new assessed taxes based on the new value. This is calculated from the sales date until January 1 of the following year. This is a one-time event. Good luck to you and your friend.

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