

Ways to Remove a Williamson Act Contract From Your Land

The Pinnacle

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There are times in life when what seems like a good idea today may not be such a good idea tomorrow, next month or next year. It is also true that changes may occur in a person's life that causes them to reevaluate their goals or long term interests. These ideas hold true for any agricultural land that is subject to a Williamson Act Contract ("Contract"). An agricultural landowner may enter into a 10 year Contract expecting that the land will continue to be used for agricultural purposes for the foreseeable future. However, the landowner may change their mind at some point in the future if they want to develop the land or allow for some nonagricultural use of the land.

There are several ways to remove a Williamson Act Contract from agricultural land. The first way is by not renewing the Contract, which a landowner may do by sending a written notice of nonrenewal to the respective city or county that is a party to the Contract. The Contract will terminate after the expiration of the contractual period. For example, if the Contract is a 10 year contract and the landowner sends in a nonrenewal notice, then the landowner will have to wait 10 years before the contract terminates on the land. During that 10 year period, the property taxes will be gradually adjusted from the Williamson Act valuation to the fair market value of the property.

The second way to terminate a Williamson Act Contract is by filing a notice of cancellation. If the city or county agrees with the cancellation, then the cancellation will be effective upon obtaining the requisite city or county approval. However, if the city or county does not approve the cancellation, then it will not be effective and the Contract will remain in place against the land. Cancellation will only be granted in an emergency or extraordinary situation in which the public interest no longer dictates that the Contract be continued. A landowner must show that the land is urgently needed for a use that no other land can serve. In addition, the public interest must be better served by the new use of the land rather than keeping the land subject to the Contract.

This is a difficult burden of proof for the landowner to satisfy. Consequently, it can be exceedingly difficult to obtain this approval from the respective city or county. For example in Monterey County, the Board of Supervisors has never approved the cancellation of any Contract. In addition, California law is clear that nonrenewal, and not cancellation, is the preferred method of terminating a Contract. Some landowners that want to develop their land with housing have argued that allowing houses to be built on their land will go towards alleviating California's shortage of housing. However, the courts have rarely agreed with this argument since new housing really only benefits the individual purchasers of the houses and not the public at large.

A city or county may be more likely to approve a cancellation if it is part of an easement exchange. An easement exchange is when the landowner agrees to remove a Williamson Act Contract from their land in exchange for granting an agricultural conservation easement on other land. The landowner will usually have to make more land subject to the agricultural conservation easement than was subject to the Williamson Act.

There are numerous factors that go into canceling a Williamson Act Contract or conducting an easement exchange, and a landowner must have a good understanding of the requirements before undertaking either course of action. The landowner should contact an attorney familiar with the Williamson Act to assist in this analysis. For more information, please call Patrick Casey, who is an attorney at Lombardo & Gilles, at (831) 754-2444.