

**S266590**

**CASE NO. S266590**  
**IN THE SUPREME COURT**  
**OF THE**  
**STATE OF CALIFORNIA**

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AMEN FAMILY 1990 REVOCABLE TRUST, Real Party in Interest

*Real Party in Interest and Appellant,*

v.

JEFFREY PRANG, Los Angeles County Assessor

*Petitioner and Respondent.*

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On Review From The Court Of Appeal For the Second Appellate District,  
Division Five, Appeal Case No. B298794

After An Appeal From the Superior Court For The State of California,  
County of Los Angeles, Case Number BS173698, Hon. James C. Chalfant

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**ANSWER TO PETITION FOR REVIEW**

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Appellant Amen Family 1990 Revocable Trust’s Petition for Review is procedurally defective and should be denied for that reason alone. It is also without merit. The crux of the Petition on is that the Court of Appeal failed to follow a State Board of Equalization regulation. The faulty premise is Appellant’s assumption that the regulation applies to the real estate transfer at issue in this case.

**I.**

**THE PETITION IS PROCEDURALLY DEFECTIVE**

The Petition, which just reargues the merits, fails to recognize the limited nature of this Court’s review.

Rule of Court 8.500(b), Grounds for review, states:

The Supreme Court may order review of a Court of Appeal decision:

- (1) When necessary to secure uniformity of decision or to settle an important question of law;
- (2) When the Court of Appeal lacked jurisdiction;
- (3) When the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or
- (4) For the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

The Petition neither cites Rule 8.500(b) nor makes any argument how the Court of Appeal’s decision satisfies any of its enumerated grounds. It should be summarily denied for that reason alone.

Grounds (2)-(4) have no application here. Since there is no appellate authority other than this case on the issue in dispute, there is no need for review to assure “uniformity of decision.” A couple considerations belie any implied argument that review is necessary to “settle an important issue of law:”

- Nothing in the record indicates the frequency of the factual situation this case presents—a transfer by a corporation with both voting and non-voting stock to another form of entity

- The absence of prior appellate authority and Board of Equalization guidance suggests that this situation does not come up often

Also, the Petition is substantively without merit.

## II.

### **THE PETITION IS WITHOUT MERIT**

On its merits, the Petition alleges that the Court of Appeal erred by failing to defer to Property Tax Rule 462.180, a regulation promulgated by the State Board of Equalization. Article XIII A, §2(a) of the Constitution allows county assessors to increase the assessed value of real estate to its current market value when the property changes ownership. When a business entity owns the property, there are two distinct types of change of ownership:

- The direct transfer of title to another person or entity—governed by Rev. & Tax. Code §60
- Indirect transfer—another person or entity acquires more than 50% of the voting stock of a corporation or a majority ownership interest in another type of entity a greater than 50% in the entity—governed by Rev. & Tax. Code §64(c)(1)

These rules are qualified by another one, Rev. & Tax. Code §62(a)(2)—if a transfer by a legal entity does not change the proportionate ownership interests of the entity’s shareholders, partners or member, there is no change of ownership. For example, if partnership X, owned equally by Smith and Jones, transfers real estate to limited liability company Y, also owned equally by Smith and Jones, there is no change of ownership.

Appellant’s case is based on the §62(a)(2) exception. Super A Foods Corporation, which had 5 total shareholders and two voting shareholders, transferred title to Appellant, which has only two beneficiaries, the Corporations voting shareholders. Appellant says that the transfer preserved

proportionate ownership interest in transferor corporation and transferee trust because you only look at who had *voting* shares in the transferor. The Assessment Appeals Board agreed. The Assessor filed a writ petition to challenge the Board's decision, which the trial court granted. The Court of Appeal affirmed. The Assessor's position was straightforward—Rev. & Tax. Code §62(a)(2) uses the broad, unqualified term “stock,” so it did not apply because not all of Super A Foods' shareholders obtained an beneficial interest in Appellant trust equal to their economic interest in Super A Foods. The ownership of the legal entity with title to the real estate went from five persons to two persons.

Appellant's argument, which the Court of Appeal carefully considered and properly rejected, tries to apply a rule for an indirect transfer under Rev. & Tax. Code §64 to this direct transfer by deed. The Petition argues that the Court of Appeals ran afoul of Rule 462.180. The argument misreads that rule. Appellant says that Rule 462.180 “defines the terms ‘ownership interest’ and ‘shares’ in Section 64(d) to mean ‘voting shares.’” Page 15. That is true. Appellant then tries to link “ownership interest” under §62(a)(2) to voting shares by looking at subsection (d)(2). The problem with that argument is subsection (d) states exceptions to subsection (c), which deals with “Transfers of Ownership Interest in Legal Entities.” Subsections (c) and (d) interpret indirect transfers under Rev. & Tax. Code §64(c), not the direct transfer of title which happened here.

Appellant then turns to some examples in Assessor's Handbook 401. Petition, pages 18-19. Unlike Rule 462.180, the Assessor's Handbook does not have the force of law. So Appellant has no argument based on Assessor's Handbook 401 that the Court of Appeals failed to defer to administrative regulations. But Respondent acknowledges that the courts do look to these materials for guidance. The example which Appellant says is the “most pertinent to this action” looks at a transfer of title from equal co-

tenants to a corporation in which they are equal owners of “the single class of voting stock.” The example concludes: “No change of ownership occurs, since the proportional ownership interest remain the same before and after the transfer.” At trial, Appellant argued that this example, as well as Board of Equalization opinion letters which refer to “voting stock,” show that “ownership interest” under §62(a)(2) is measured only by voting stock. Respondent argued, and the trial court agreed, that the example did not since there is no indication whether the corporation in the examples had both voting and nonvoting shares:

Both AH-401 and the opinion letters state that section 62(a)(2)'s exclusion from the definition of change in ownership for proportional ownership interest transfers applies when there is complete proportionality between the transferees and the transferors as represented by their voting stock, but they offer no analysis of why voting stock is the measure and do not explain what happens when there is both voting and non-voting stock.

AR 468. The Court of Appeal carefully considered Appellant’s arguments and, like the trial court, finds them “not particularly helpful” because:

(N)one of the examples cited in these materials address the situation in which both voting and non-voting stock are at play in determining ownership under section 62(a)(2).

Opinion, page 13, footnote 10.

Section IV.B. of the Petition says the Court of Appeal created a conflict in the “statutory framework” goes against the Legislature’s intent. This section, like the rest of the Petition, reargues the merits. The clearest response—which the Court of Appeal endorsed—is that the Legislature showed its intent by its careful choice of words—“stock” in §62 and “voting stock” in §64 and several other sections of the Rev. and Tax. Code.

The Petition concludes with the argument that the Court of Appeal’s opinion will “upset settled expectations” and undermine the ability of the State Board of Equalization to ensure compliance with the property tax

laws. This argument implies that this case presents a fact situation which is very common. As argued in Section I above, there is just nothing in the record to support that suggestion. And if it were true, there is a remedy. The Board of Equalization could promulgate an amended Rule 462.180 which specifically interprets §62(a)(2) in the context of a transfer from a corporation with both voting and non-voting shares to another entity.

Dated: February 1, 2021

LAMB AND KAWAKAMI LLP

By:           /s/ Michael K. Slattery            
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**CERTIFICATE OF COMPLIANCE PURSUANT TO CALIFORNIA**  
**RULES OF COURT RULE 8.204(c)(1)**

Pursuant to California Rules of Court Rule 8.204(c)(1), I certify that according to Microsoft Word the attached brief is proportionally spaced, has a typeface of 13 points and contains 1,282 words.

Dated: February 1, 2021

LAMB AND KAWAKAMI LLP

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 333 South Grand Avenue, Suite 4200, Los Angeles, CA 90071.

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Executed on February 1, 2021, at Los Angeles, California.

*/s/ Jean Lee*  
\_\_\_\_\_  
Jean Lee

**STATE OF CALIFORNIA**  
Supreme Court of California

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**STATE OF CALIFORNIA**  
Supreme Court of California

Case Name: **PRANG v.**  
**AMEN**

Case Number: **S266590**

Lower Court Case Number: **B298794**

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