

A response to Lucy Dunn's critical commentary

By Claude Parrish

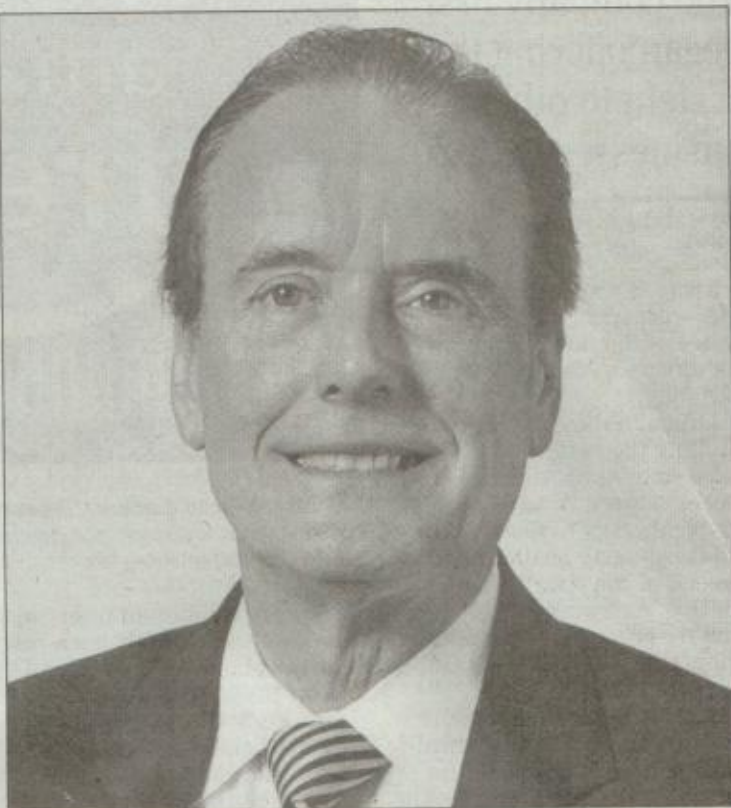
This is in response to Lucy Dunn's opinion piece in the Orange County Register's March 21, 2024, edition. The opinion makes "A call to halt OC Tax Assessor Claude Parrish's foolish 'rent tax' proposal." The opinion credits me with a questionable proposed possessory interest tax — a rent tax on the new middle class housing.

Nothing can be further from the truth. The assessment of taxable possessory interest that Ms. Dunn's credits me with has been tax law for over a hundred years. There is a longstanding judicial support for the taxable nature of private possession of publicly owned property. In 1939, existing California tax law was enacted in the Revenue and Taxation Code making it the first possessory interest law. The law required a tax imposed on the private possession of government property.

Over the last several years, local governments in California have received numerous proposals to authorize government-owned middle-income housing funded by tax-exempt bonds, where the government ownership of the property is exempt from property taxes. Supporters claim that these proposals will help local governments meet housing needs for the "missing middle" — i.e., those households who earn too much to qualify for low-income housing, but not enough to afford market price rents.

The heroes in your opinion piece are private, for-profit real estate developers (that ultimately become the project "administrator") who arrange for the purchase of an occupied apartment property from its owner, and, through a bond-financing arrangement, the developer earns substantial revenue, transfers the right to purchase the apartment property to a joint powers agency (JPA). Since the JPAs are government entities, the property is now exempt from property tax.

The so called stated purpose of the transfer of legal ownership is to create low- and moderate-income housing in communities where the JPAs have members, such as the city of Anaheim. However, none of these financing projects cre-



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Orange County Assessor Claude Parrish shown in 2014.

ate any additional housing. Instead, they only transfer legal ownership of existing, occupied apartment properties to governmental owners. In most cases, the administrators receive an up-front fee worth millions upon transferring the right to purchase the apartment properties to the government authority, earn substantial annual fees for its continued control of the properties, and are the beneficiaries of bonds that will result in multi-million-dollar payments to them over the bonds' lives.

The taxable possessory interest is assessed on the Administrators under section 107 of the Revenue and Taxation Code and not the renters of the apartment complex. In fact, several county assessors wanted to assess the taxable possessory interest on the renters, but I convinced them that the correct entity that should be assessed are the property administrators.

By partnering with public JPAs, private for-profit businesses avoid paying property taxes on apartment purchases. Based on an analysis done by the Office of the Assessor, we believe that these transactions do not provide

public benefit compared to the lost tax revenue, there is no reduction because some rents are lowered, and a similar amount is added to the other tenants in the same building. Typically, the purchases are highly leveraged, they utilize unrated-tax exempt bonds which could have a high risk of default, and payout excessive fees to the investors. As the elected Orange County assessor, I am required to follow the property tax law in assessing the taxable possessory interest on the property administrators. Since these administrators make millions of dollars in revenue, there is no need for them to pass along the tax to renters and they still can make significant amount of profit even after paying the tax at issue.

The opinion piece asks that I return to being Orange County's middle-class taxpayer hero. I have never wavered in my commitment in helping all taxpayers. That is why I created a Taxpayer Advocate in my office, who has helped over 9,400 taxpayers with assistance with all property tax matters.

Claude Parrish is Orange County's assessor