



Home → Hot Topic → Fire Victims: Worried about your Prop 13 rights? Don't be.

Fire Victims: Worried about your Prop 13 rights? Don't be.

Jon Coupal | May 11, 2018

HJTA reminds those who have suffered loss due to fire or other calamity that your Proposition 13 rights remain intact. If it is impractical or inconvenient to rebuild your home in its current location, you still may be able to transfer your Prop 13 base year value to a new home.

Following repairs made due to a fire or other calamity, your home's assessed value will return to its "full cash value" per [Revenue and Taxation Code section 170\(h\)](#), but that "full cash value" is *still capped by Proposition 13*. Only "new construction" can be re-assessed, and only to the extent of what is deemed "new construction."

[Revenue and Taxation Code section 70](#) defines "new construction" with a specific rule about reconstruction after a fire or other calamity:

"[W]here real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion that exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1."

Only what exceeds "substantially equivalent construction" can have a new base value. If you add on that extra bedroom or bathroom you've always wanted while you are re-building, you will only have a new base value as to the additional room, not your entire house.

When does reconstruction constitute “new construction?” It’s debatable, but reasonable examples include any added square footage or added features like a new fireplace.

If the Governor declared the fire that impacted your home a disaster, you have further options under [Article 13A Section 2](#). Suppose you do not want to live in a hotel for a year while your home is being rebuilt. You want to move and leave the disaster behind. If you suffered 50% or greater damage to your property or its fair market value, you may transfer your base value to comparable property within the county “that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.” If you want to move to another county, and that county will cooperate, you may even be able to transfer your base value to that county. Finally, even without 50% minimum damage, anyone over age 55 or severely disabled may similarly transfer base value per [Revenue and Taxation Code section 69.5](#).

These actions must be made within specified or reasonable time limits depending on your situation. Please consult an attorney for specialized advice. You may always call your local county Assessor’s office.

◀ (PR): Howard Jarvis Taxpayers Association
PAC Endorses John Cox for Governor

(PR): HJTA Files Suit Over Illegal CalSavers Program ▶