

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 20056207
D. MOTLEY AND	)	
M. MOTLEY	)	
	)	
	)	
	)	

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellants:	Sandford I. Millar, Attorney D. Motley
For Respondent:	Sonia D. Woodruff, Attorney Nathan Hall, Attorney Supervisor

H. LE, Administrative Law Judge: On September 25, 2024, the Office of Tax Appeals (OTA) issued an Opinion modifying the action of the Franchise Tax Board (respondent) in accordance with its concessions on appeal, but otherwise sustaining its proposed assessment of tax. In the Opinion, OTA held D. Motley and M. Motley (appellants) have not shown that they are entitled to any additional claimed basis amounts, other than the amounts allowed and conceded by respondent on appeal.

On October 22, 2024, appellants timely filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code section 19048 on the basis that there is insufficient evidence to justify the Opinion and that the Opinion is contrary to law. Upon consideration of appellants' petition, OTA concludes that the grounds set forth in their petition do not constitute a basis for granting a new hearing.

OTA will grant a rehearing where one of the following grounds for a rehearing exists and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented fair consideration of the appeal; (2) an accident or surprise, occurring during the appeal proceedings and prior to the issuance of the Opinion, which ordinary caution could not have prevented; (3) newly discovered evidence, material to the appeal, which the party could not have reasonably discovered and provided prior to issuance of the Opinion; (4) insufficient evidence to justify the Opinion; (5) the Opinion is contrary to law; or (6) an error in law in the

OTA appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Shanahan*, 2024-OTA-040P.)

To find that there is insufficient evidence to justify the opinion, OTA must find that, after weighing the evidence in the record, including reasonable inferences based on that evidence, OTA clearly should have reached a different opinion. (*Appeal of Shanahan, supra.*) The question of whether a decision is contrary to law is not one that involves a weighing of the evidence but instead requires a finding that the decision is “unsupported by any substantial evidence.” (*Sanchez-Corea v. Bank of America* (1985) 38 Cal.3d 892, 907.)

Appellants’ petition contains contentions that attempt to reargue the same issues addressed in the underlying Opinion—namely, that they are entitled to a higher tax basis in their property. However, on many of those issues, respondent has already conceded and allowed the corresponding adjustments. As noted in the Opinion, respondent has conceded the following amounts in the computation of basis: \$50,400, supported by an architectural firm’s invoice; \$21,469.82, supported by an engineering firm’s invoice; \$230,621, supported by copies of checks; and \$65,857, supported by appellants’ ledger. Given these concessions, it is unclear why appellants continue to reassert these same issues. As to the remaining issues raised, appellants’ dissatisfaction with the Opinion and their attempt to reargue previously considered contentions do not constitute grounds for a rehearing. (*Appeal of Graham and Smith*, 2018-OTA-154P.)

Accordingly, OTA finds that appellants have not established a basis for rehearing. The petition is therefore denied.

DocuSigned by:



Huy "Mike" Le
Administrative Law Judge

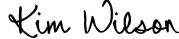
We concur:

DocuSigned by:



Erica Parker
Hearing Officer

Signed by:



Kim Wilson
Hearing Officer

Date Issued: 9/30/2025