



# Board Agenda Item 21

DATE: April 11, 2023

TO: Board of Supervisors

SUBMITTED BY: Oscar J. Garcia, CPA, Auditor-Controller/Treasurer-Tax Collector

SUBJECT: Decision on Claims for Excess Proceeds Resulting from 2021 Sale of Tax Defaulted Properties and 2021 Chapter 8 Sale

## RECOMMENDED ACTION(S):

**Approve resolution granting forty-seven (47) claims for excess proceeds from the March 2021 sale of tax-defaulted properties, and ordering distribution after the 90-day waiting period, where claimants submitted information and proof sufficient to establish a right to all or any portion of the excess proceeds; and denying seven (7) claims for excess proceeds either because claimants failed to submit information and proof sufficient to establish a right to all or any portion of the excess proceeds, the claim was not timely submitted, there are not sufficient proceeds available, or the claims were satisfied by other means.**

The excess proceeds are the remaining proceeds available from the sale of tax-defaulted properties that your Board approved on December 15, 2020, and that was conducted on March 12-15, 2021 (2021 Tax Sale). The recommended resolution grants forty-seven (47) claims for excess proceeds, based on documentation submitted to the Auditor-Controller/Treasurer-Tax Collector's office (AC/TTC) establishing each claimant's right as a party of interest pursuant to California Revenue and Taxation Code section 4675. The recommended resolution denies 6 claims where the claimant provided insufficient evidence and 1 claim where there are not sufficient excess proceeds available. This item is countywide.

## ALTERNATIVE ACTION(S):

Revenue and Taxation Code section 4675, subdivision (e), requires the Board to distribute excess proceeds. For the claims related to any particular property, however, the Board may direct staff to return with additional information before approving a resolution to grant or deny those claims.

## FISCAL IMPACT:

The 2021 Tax Sale excess proceeds and 2021 Chapter 8 Sale excess proceeds are the remaining proceeds after all taxes, penalties, costs, and fees have been satisfied to the County of Fresno. Excess proceeds not claimed, or for which there is not a valid claim, will be distributed to the County pursuant to Revenue and Taxation Code section 4674. Therefore, approval of the recommended action will fiscally impact the County's General Fund as a one-time revenue increase of \$199,518.99.

## DISCUSSION:

The AC/TTC periodically conducts a sale of property that has become subject to the power of sale because of delinquent taxes. California Revenue and Taxation Code section 4675 provides that any party of interest in the property at the time of sale may file with the County a claim for excess proceeds within one year

following the recordation of the Tax Collector's deed to the purchaser at the tax sale. The March 12-15, 2021 tax sale resulted in excess proceeds totaling \$2,894,418.57 from 42 of the 87 sold parcels, and there were no excess proceeds from the other 45 parcels sold.

Separately, on April 27, 2021, the Board approved the sale of seven tax-defaulted properties to non-profit organization Habitat for Humanity Fresno, Inc., under Chapter 8 of Part 6 of Division 1 of the Revenue and Taxation Code (Chapter 8) and authorized the Chairman to execute the "Agreement for Non-Profit Organization to Purchase Tax-Defaulted Property," which is County agreement number 21-132 (Chapter 8 Agreement). As provided by the Chapter 8 agreement, deeds to Habitat for Humanity Fresno, Inc., were recorded on August 16, 2021, and the period to claim excess proceeds ended one year later, on August 16, 2022, as provided by Revenue and Taxation Code section 4675. That Chapter 8 sale resulted in excess proceeds totaling \$1,630.62 from 1 of the 7 sold properties.

This item recommends a distribution for all of the excess proceeds from the 2021 Tax Sale and the 2021 Chapter 8 sale.

The AC/TTC receives excess proceeds claims through the mail or at the tax counter. AC/TTC staff reviews all claims and supporting documents to see whether they show that the claimant has a right to some or all the excess proceeds under Revenue and Taxation Code section 4675. Claimants that submit incomplete claims at the tax counter are informed whether any necessary documents are missing before the AC/TTC office accepts their claims. Claimants that mail incomplete claims receive a letter informing them that additional documents are needed to complete their claim. When letters are mailed to claimants regarding additional documents, claimants are given 10 days or more to respond. All complete and timely submitted claims are then reviewed by AC/TTC staff in accordance with Revenue and Taxation Code section 4675, which describes how excess proceeds from sales of tax-defaulted properties must be distributed. The staff recommendations are based on that review. A summary explaining the reasons for the staff recommendation on each claim are shown in Attachment A, titled "Supporting Documentation for Recommended Resolution Approving 47 Claims and Denying 7 Claims for Excess Proceeds Resulting from March 2021 Sale of Tax-Defaulted Properties, and Approving the Transfer of Excess Proceeds from the July 28, 2021 Chapter 8 Sale of Tax-Defaulted Property, in the Amount of \$1,630.62, to the Fresno County General Fund."

On March 27, 2023, the AC/TTC mailed letters to all of the claimants giving notice that their claims would come before the Board for decision on this date and informing them that they are welcome to attend the meeting and address the Board. The letters also informed claimants that the proposed distribution would be available for review online when the agenda for this meeting posted, about a week before the meeting, and that the final distribution would also be available for review online after the meeting.

Payments for claims granted under the recommended resolution total \$2,582,977.11. The excess proceeds would be disbursed after a 90-day waiting period following the approval of the resolutions, which is the limitation period for lawsuits challenging this Board action, as provided in Revenue and Taxation Code Section 4675, subdivision (g). The recommended resolution also provides that the balance of \$199,518.99 in excess proceeds not distributed, either because they were not claimed or because there was not a valid claim for them, will be distributed to the County, as provided in Revenue and Taxation Code section 4674.

There are 7 claims for which staff is recommending denial for the following reasons: 6 claims should be denied because the claimants failed to submit information and proof sufficient to establish a right to all or any portion of the excess proceeds; 1 claims should be denied because there are not sufficient excess proceeds to pay those claims.

REFERENCE MATERIAL:

BAI #33, March 22, 2022

BAI #25, April 19, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On File With the Clerk - Resolution  
On File With the Clerk - Attachment A

CAO ANALYST:

Greg Reinke