



Board Agenda Item 25

DATE: June 22, 2021

TO: Board of Supervisors

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

SUBJECT: Decision on Claims for Excess Proceeds Resulting from 2019 Sale of Tax Defaulted Property

RECOMMENDED ACTION(S):

Approve resolution granting twenty-five (25) claims for excess proceeds, 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 seventeen (17) 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 2019 Tax Sale that your Board approved on December 4, 2018, and that was conducted on March 8-11, 2019. The recommended resolution grants twenty-five (25) 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 5 claims where the claimant provided insufficient evidence and 12 claims where there are not sufficient excess proceeds available, or where the claims were satisfied by other means. March 9, 2021, was the last excess proceeds item brought by AC/TTC to your Board, for excess proceeds from the 2018 Tax Sale for properties with multiple claims. 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 2019 Tax 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 \$133,968.19.

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 8 -11, 2019, tax sale resulted in excess proceeds totaling \$3,457,270.51 from 44 of the 48 sold parcels. (There were no excess proceeds from the other four parcels.) On November 3, 2020, your Board decided the claims for excess proceeds from the 28 properties where was only a single claim, or no claims. This item resolves claims for excess proceeds from the remaining 16 parcels, where there were multiple claims. There are 42 claims for excess proceeds from those 16 parcels. (The November 3, 2020 item stated that there were 41 claims for excess proceeds from parcels with multiple claims, but upon further review the AC/TTC determined that two different claims from the same claimant had been counted as one claim, and in fact there were 42 such claims.)

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 document(s) will be 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 Supporting Documentation for Recommended Resolution Approving 25 and Denying 17 Claims to Excess Proceeds Resulting from March 2019 Sale of Tax-Defaulted Properties (Multiple Claim Items Only)."

On June 9, 2021, 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 \$2,074,604.03. 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 \$133,968.19 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 17 claims for which staff is recommending denial for the following reasons: 5 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; 10 of the claims should be denied because there are not sufficient excess proceeds to pay those claims; and 2 of the claims should be denied because the claim was satisfied by other means.

REFERENCE MATERIAL:

BAI #21, March 9, 2021

BAI #21, November 3, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

On file with Clerk - Attachment A

CAO ANALYST:

Yussel Zalapa