



Board Agenda Item 4

DATE: June 18, 2024

TO: Board of Supervisors

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

SUBJECT: Hearing on Petition to Rescind March 2024 Tax Sale of APN 511-240-15S

RECOMMENDED ACTION(S):

Conduct hearing on petition by Angrez Singh Gill to rescind the County's sale of APN 511-240-15S, described as "SUR RTS 2.12 AC IN NE1/4 OF NE1/4 SEC 23 T13R19," at the County's March 14 through 15, 2024 sale of tax-defaulted properties.

The property identified by Assessor's Parcel Number (APN) 511-240-15S (Property) was sold at the County's annual sale of tax-defaulted properties on March 14 through 15, 2024 (Tax Sale). Before the Tax Sale, the Property was assessed to Angrez S. Gill (Petitioner). The purchaser of the Property at the Tax Sale was Sukhbaj Randhawa (Purchaser). On April 29, 2024, the Petitioner submitted a letter petitioning to rescind that sale and requesting a hearing on that petition (Petition). The recommended action allows Petitioner to present his case for rescission and gives the Purchaser an opportunity to present his objections to the petition, if any. This item pertains to a location in District 1.

Staff will recommend that your Board deny the petition.

ALTERNATIVE ACTION(S):

There is no alternative action. The Petitioner has a right to a hearing before your Board on this matter, and an obligation to request such a hearing before he may file a lawsuit against the County on this matter, if he wishes to do so (Revenue and Taxation Code § 3725(a)(1)).

FISCAL IMPACT:

If your Board rescinds the sale, the County would be required to issue a refund to the Purchaser of the amount paid as the total purchase price at the Tax Sale (\$181,299.65), plus interest at the greater of 3% annually or the County pool apportioned rate from the date of the purchase of the property at the tax sale until the date of the rescission. Interest that would be due through June 18, 2024, is estimated to be \$1,445.43. If the order to rescind were to occur on a later date, the amount of interest would be higher. If your Board decides not to rescind the sale, then there would be no Net County Cost due to a refund.

DISCUSSION:

Before the Tax Sale, the Auditor-Controller/Treasurer-Tax Collector (ACTTC) provided all notices required by law, including: tax bills that were mailed to the Petitioner at the address supplied by the Petitioner; the recorded Notice of Power to Sell Tax Defaulted Property, which put the Petitioner on notice of the impending sale; and Notices of Sale of Tax-Defaulted Properties Subject to Power to Sell (Notices of Tax Sale) that were sent by certified mail on January 26, 2024, to addresses supplied by the Petitioner, including one received at the address listed on the Petition as the Petitioner's address.

On March 14, 2024, the Property was sold at the Tax Sale, for the price of \$181,299.65.

On April 4, 2024, the County received an email from the Petitioner with the subject "Urgent Inquiry and Request for Assistance Regarding Property Tax Discrepancy (APN No. 511-240-15S & 511-240-16S)." In that email, the Petitioner stated that he had visited the ACTTC's office in May 2023 and believed that he had paid property taxes on two parcels, including the Property and APN 511-240-16S, which is adjacent to the Property. In fact, he had not done so, and the payment receipt attached to his email showed no payment on the Property. By that email, the Petitioner requested the following:

- Investigation about why tax bills were not issued or received for the two parcels and why the full amounts due were not communicated during his in-person visit to the ACTTC's office in May 2023 .
- Records of the tax history for both parcels.
- Information about the Purchaser.
- A temporary hold on the tax sale deed to the Purchaser .

On April 12, 2024, the ACTTC responded by letter and provided the tax history records requested. That letter informed the Petitioner that all tax bills were issued, but that the ACTTC cannot speak to whether those tax bills were received, and, if not, why not. Regarding the Petitioner's May 2023 visit to the ACTTC's office, the letter informed the Petitioner that all documents that he provided related *only* to APN 511-240-16S, and it was his responsibility to check his own records and to ensure that all property taxes were paid on the parcels for which he intended to pay them. The letter also advised the Petitioner that, under California law, the responsibility to ensure that property taxes are paid falls squarely with the owner of property. Finally, the letter identified the Purchaser and explained that the ACTTC did not have legal authority to put a hold on the deed, but instead had a legal obligation, under Revenue and Taxation Code section 3708.1, to record the deed.

On April 29, 2024, the County received the Petition. In summary, the Petition alleges:

- That the Petitioner paid the taxes for APN 511-240-16S, but not for the Property (adjacent Parcel 511-240-15S), because he never received a tax bill since acquiring the property.
- That the Petitioner did not receive tax bills due to oversight or a potential system error, which led to the auction without his knowledge.

The Petition requests a hearing under Revenue and Taxation Code section 3731. That section provides for a hearing before your Board on a request to rescind the sale of tax-defaulted property.

After receiving the Petition, the ACTTC gave notice of the hearing to the Purchaser as required by law (Revenue and Taxation Code § 3731(b)). With that notice, the ACTTC informed both the Petitioner and the Purchaser that, if they had any written materials, such as evidentiary documentation, written legal arguments, presentation slides, or the like, that they wished to present to your Board at the hearing, they must submit those materials to the ACTTC no later than three weeks before the hearing, which was May 28.

On May 27, the Purchaser provided written materials in response to the Petition. The Petitioner did not provide any further written materials by the May 28 deadline.

During the hearing, the ACTTC intends to present evidence that:

- The Petitioner originally acquired the property through his business entity American Truck Driving School, Inc., in 2017. On the Grant Deed (Doc #2017-0107494), the address listed for tax statements was 3247 N. Sonora, Fresno, California 93722.

- In 2022, the Petitioner transferred the property to his own name. On the Grant Deed (Doc #2022-0076195), the address listed for tax statements was again 3247 N. Sonora.
- For the tax years 2018-19 through 2022-23, the property tax bills for the Property were mailed to the Petitioner at the address shown on the tax roll for the assessee of the Property, which was 3247 N. Sonora.
- When the Petitioner transferred the property to his own name in 2022, he also completed a Preliminary Change of Ownership Report (PCOR), which is not a public document. In that PCOR, the Petitioner listed 3639 N. Brawley, Fresno, California 93722 as his address. Based on that document, the Assessor's office changed the address on the tax roll to 3639 N. Brawley. The property tax bill for 2023-24 was sent to that address.
- On July 14, 2023, notice that the Property was tax-defaulted and subject to the power of sale was recorded in the office of the County Recorder. That recorded document put the Petitioner on notice of the impending sale.

On January 26, 2024, Notice of Tax Sale was mailed to the Petitioner at the address shown on the tax roll for the assessee of the Property, which was 3639 N. Brawley, and also to 3247 N. Sonora.

- On or around January 29, 2024, the Notice of Tax Sale mailed to 3247 N. Sonora was confirmed received by certified mail receipt. On or around March 12, 2024, just two days before the Tax Sale, the Notice of Tax Sale mailed to 3639 N. Brawley was returned to the ACTTC marked not deliverable as addressed and unable to forward.
- The Notice of Tax Sale refers to the Revenue and Taxation Code section 3707, which provides that the right of redemption shall terminate at the close of business at 5:00 p.m. on the last business day prior to the date of the sale. For the March 2024 Tax Sale, the right of redemption terminated at 5:00 p.m. on Wednesday, March 13, 2024. No payment was received for the Property before the close of business on March 13, 2024.
- The Property does not meet the requirements for personal contact, so ACTTC staff did not attempt personal contact with the owner before the sale of the Property. Under Revenue and Taxation Code section 3704.7, personal contact is only required for property that is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the Assessor, or the fact that the mailing address for the last tax bill is the same address as the property. Neither of those requirements was met for the Property here.
- On his Petition, dated April 29, 2024, the Petitioner listed his address as 3247 N. Sonora, which is where most of the property tax bills went, as stated above. That is also the only address where certified mail with the Notice of Tax Sale was actually received.

Findings Required to Rescind the Sale of Tax-Defaulted Property

To rescind the Tax Sale of the Property, your Board must make the following findings, based on the testimony, documents, and arguments presented during the hearing:

1. The Property should not have been sold.
2. The Property has not been transferred or conveyed by the Purchaser to a "bona fide purchaser for value" since the deed to the Purchaser was recorded on April 29, 2024.
3. The Property has not become subject to a "bona fide encumbrance for value" since the deed to the Purchaser was recorded on April 29, 2024.

4. The Purchaser received notice of the hearing as required by Revenue and Taxation Code Section 3731, subdivision (b)(2)

Staff believes, and will recommend to your Board, that there is not sufficient evidence to make the first required finding. Examples of when property “should not have been sold” at a tax sale include: (1) when the property was timely redeemed, but then erroneously listed for auction and sold; (2) when the property owner filed for bankruptcy, which should have stopped the sale, but the Tax Collector proceeded to sell the property anyway; or (3) when the Tax Collector failed to give all notices required by law before the sale. In this case, the Property was not redeemed, there was no bankruptcy filing, and the Tax Collector gave all notices required by law before the sale.

Excess Proceeds

The Petitioner has been notified by the Notice of Tax Sale that, if the sale of the Property is sold at auction, he has the right to claim excess proceeds that remain after the tax and assessment liens and costs of sale are satisfied. There are appropriately \$148,071.63 in excess proceeds from the Tax Sale of the Property. The Petitioner may submit a claim for excess proceeds at any time within one year after the recordation of the tax sale deed, which occurred on April 29, 2024.

Under Revenue and Taxation Code section 4675, subdivision (e)(2)(A), however, because your Board has been petitioned to rescind the Tax Sale of the Property, if your Board determines that the sale should not be rescinded, then excess proceeds may not be distributed until one year after the date of that determination, and only if the Petitioner does not commence a proceeding in court to challenge the Tax Sale of the Property.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Petition to Request for Hearing Regarding Property Parcel No. 511-240-15S
On file with Clerk - Purchaser Written Materials in Response to the Petition
On file with Clerk - Tax Collector Documentation
Tax Collector PowerPoint Presentation

CAO ANALYST:

Paige Benavides