



Board Agenda Item 22

DATE: December 14, 2021

TO: Board of Supervisors

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

SUBJECT: Approval to Sell Tax Defaulted Properties that are Subject to Tax Collector's Power to Sell and Direct those Properties be Sold at Public Auction.

RECOMMENDED ACTION(S):

Adopt a resolution approving a March 2022 sale of tax-defaulted properties that are subject to the Tax Collector's power to sell and authorizing the Tax Collector to reduce the minimum bids on certain previously-offered properties in specified circumstances

Approval of the recommended resolution authorizes the Auditor-Controller/Treasurer-Tax Collector (Tax Collector) to attempt to sell the 152 tax defaulted properties listed on **Attachment 1** at a public auction via the Internet for the stated minimum bid and allow a reduction in the minimum bid during the sale if no bids are received. Additionally, approval of the recommended resolution would allow the Tax Collector to reoffer, within 90 days after the close of the tax sale, any properties that are not sold during the tax sale. Finally, approval of the recommended resolution would also allow the Tax Collector to offer 14 tax-defaulted properties at reduced minimum bids if they have failed to sell at the minimum bids in two or more previous tax sales. The Tax Collector may reduce minimum bids for previously offered properties by greater than 50%. Some of these properties have previously been offered for tax sale for up to 9 years without receiving minimum bids.

In general, all delinquent taxes, penalties, and costs of the sale are recovered through the sale of properties. But some taxes, penalties, or costs may not be recovered if a property with a reduced minimum bid sells for less than the minimum bid. The benefit to the County of selling properties at reduced minimum bids is to return those properties to revenue-generating status. This item is countywide.

ALTERNATIVE ACTION(S):

Under Revenue and Taxation Code section 3692, subdivision (a), the Tax Collector is required to attempt to sell tax-defaulted properties within four years of the time the property becomes subject to sale for nonpayment of taxes. Therefore, not approving the recommended action would hinder the Tax Collector's ability to comply with Revenue and Taxation Code section 3692, subdivision (a).

The Board may choose not to give the Tax Collector the additional authorizations to reduce the minimum bid amounts on some parcels. If that is what the Board chooses, then the Board would need to modify the recommended resolution by striking sections 3, 4, and 5 of that resolution before adopting it. Those additional authorizations are especially useful when parcels' market value is less than the minimum bid amount, which is a factor that may be considered under California Revenue and Taxation Code section 3698.5. The purpose of the Tax Sale is to redeem any unpaid taxes, penalties and costs along with returning the tax-defaulted property to a revenue-generating status; therefore, striking paragraphs 3, 4, and 5 of the recommended resolution may result in properties not getting sold and not reverting to a revenue-generating

status.

FISCAL IMPACT:

When tax-defaulted properties are sold for the statutory minimum bid, the County recovers the cost of sale and enough to pay the outstanding delinquent taxes, penalties, and costs for the vast majority of parcels sold at auction. Some taxes, penalties, or costs may not be recovered if a parcel with a reduced minimum bid sells for less than the initial minimum bid, under the authorization provided in sections 3, 4, and 5 of the recommended resolution.

DISCUSSION:

Each calendar year taxes on real property become due and payable in two installments. The first installment is due on November 1 and delinquent if not paid by December 10 and the second installment is due on February 1 and delinquent if not paid by April 10. When taxes become delinquent, a 10 percent penalty attaches immediately. If all taxes, penalties, and costs are not paid by the end of the tax year, which is June 30, then the property is declared tax defaulted. When property is tax defaulted, a redemption penalty of 1 ½ percent per month begins to accrue until the property is redeemed.

If property remains tax defaulted for five years or more (or three years or more in the case of nonresidential commercial property), then the Tax Collector has the power to sell the property. After that power of sale arises, the Tax Collector must attempt to sell the property within four years. The Tax Collector may not sell tax defaulted property unless the Board of Supervisors approves the sale.

Before the tax sale, Tax Collector's staff attempt to make personal contact with the owner, the occupant, or both, of each tax defaulted property that satisfies the requirements in section 3704.7 of the Revenue and Taxation Code. The requirements in that section are that the property is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the County Assessor in the name of the last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property. During the personal contact, Tax Collector staff explains how the property can be redeemed.

The Tax Collector conducts the tax sale by online public auction. When property is sold at the tax sale, there is a statutory minimum sale price, or minimum bid. The statutory minimum bid is the amount necessary to redeem the property, which includes all defaulted taxes, all delinquent penalties, all redemption penalties, a redemption fee, and the costs of sale. Any person, including the owner, may redeem the property until the close of business on the last business day before the tax sale. If the owner does not redeem the property, then the owner may purchase the property during the tax sale if the owner has complied with all of the bidding requirements. Those bidding requirements include registering and posting a \$5,000 deposit. An owner that chooses to bid on the property instead of redeeming might have to pay a higher cost if other interested bidders participate and cause the sale price to increase.

When property has been offered for sale but no acceptable bids are received at the statutory minimum sale price, Revenue and Taxation Code section 3698.5 allows the Tax Collector, with your Board's approval, to offer the same property at a reduced minimum bid that the Tax Collector deems appropriate in light of the most current assessed valuation of that property, or any unique circumstance with respect to that property.

The historical practice before the 2021 tax sale was that the first year that properties were offered in the public auction of tax-defaulted property, the reduction of the minimum bid amount was not exercised. The Tax Collector only exercised the authorization from your Board to reduce the minimum bid for properties that remained unsold from tax sales in prior years. In those cases, the minimum bid was ordinarily reduced by 50 percent, and only after there was a period with no bidding activity on the property.

This year, as in 2021, the Tax Collector recommends that your Board approve offering properties that have

not sold during two or more prior tax sales at a reduced minimum bid at the start of the auction. Some of these properties have been offered at prior tax sales for up to 9 years without receiving minimum bids. The Tax Collector would reduce the minimum bid for properties that have not sold during two or more prior tax sales to a price that the Tax Collector deems appropriate. That might include reductions of greater than 50 percent. When the minimum bid is reduced, the County does not typically recover all of the penalties, costs, and fees that are attached to the tax defaulted property and may affect the base tax recovery as well.

In 2022, 14 parcels out of the total of 152 to be offered for sale remain unsold from two or more prior tax sales. If your Board authorizes the Tax Collector to reduce minimum bids as recommended, 14 parcels of 152 total parcels would be affected during the March 11-14, 2022 tax sale. Such reductions would be as the Tax Collector deems appropriate, potentially including reductions greater than 50% from the minimum bid amounts. The Tax Collector determines the amount of the reduction by considering a variety of factors including assessed value, the location, condition, and type of the property, and number of years previously offered.

If any property is not sold at the tax sale, the Tax Collector recommends your Board approve that it may be reoffered within 90 days after the close of the March 11-14, 2022 tax sale. If your Board authorizes the Tax Collector to reduce minimum bids, then minimum bids may also be reduced as described above for properties that are reoffered during that period, which might include properties other than the 14 parcels that remain unsold from prior tax sales.

REFERENCE MATERIAL:

BAI #40, December 15, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

One file with Clerk - Attachment 1 - Tax Sale List

One file with Clerk - Resolution Approving a March 2022 Sale of Tax-Defaulted Properties Subject to Tax Collector's Power to Sell

CAO ANALYST:

Greg Reinke