



# Board Agenda Item 21

DATE: August 21, 2018

TO: Board of Supervisors

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

SUBJECT: Approval of Claimants' Rights to Excess Proceeds Resulting from 2015 Sale of Tax Defaulted Properties

RECOMMENDED ACTION(S):

**Approve one (1) resolution granting fifty-five (55) 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 thirty-eight (38) claims for excess proceeds either because there are not sufficient proceeds available, because claim is being satisfied by other means, or because claimants failed to submit information and proof sufficient to establish a right to all or any portion of the excess proceeds.**

The excess proceeds are the remaining proceeds available from the 2015 Tax Sale that your Board approved on December 2, 2014 and was conducted on March 6-9, 2015. The recommended resolution granting fifty-five (55) claims for excess proceeds is based on documentation submitted to the Auditor-Controller/Treasurer-Tax Collector's office (AC/TTC) establishing the claimant's rights as parties of interest in the properties pursuant to California Revenue and Taxation Code section 4675. The recommended resolution denying claims resulted from 13 claims where the claimant provided insufficient evidence and 25 claims where there are not any excess proceeds available to distribute or that have been or will be satisfied by other means. December 12, 2017 was the last recommended excess proceeds item brought by AC/TTC to your Board, for a 2014 Tax Sale property. 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 resolutions to grant or deny those claims.

FISCAL IMPACT:

The 2015 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 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 \$290,333.35.

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 6 through March 9, 2015, tax sale resulted in excess proceeds totaling \$1,525,208.62 from 59 of the 83 sold parcels. This item resolves the 59 parcels with excess proceeds. There were 93 claims filed and 12 of the parcels with excess proceeds had no claimants for excess proceeds.

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 of 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 process 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 Excess Proceeds Resolutions."

On July 23, 2018, 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 resolutions total \$1,234,875.27. 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).

There are 38 claims for which staff is recommending denial for the following reasons: 13 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; 25 of the claims should be denied because there are not sufficient excess proceeds to pay those claims or the claimant has been or will be satisfied by other means.

REFERENCE MATERIAL:

BAI #22, January 31, 2017  
BAI #16, December 12, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution  
On file with Clerk - Attachment A

CAO ANALYST:

Juan Lopez