



Board Agenda Item 13

DATE: April 23, 2019

TO: Board of Supervisors

SUBMITTED BY: Paul Dictos, CPA, Assessor-Recorder

SUBJECT: Amendment to the Fresno County Ordinance Code to Add Chapter on Reassessment of Property Damaged or Destroyed by Misfortune or Calamity

RECOMMENDED ACTION:

- 1. Conduct first hearing on an Ordinance to add Chapter 4.57, "Reassessment of Property Damaged or Destroyed by Misfortune or Calamity," to Title 4, "Revenue and Finance," of the Ordinance Code of Fresno County; waive the reading of the Ordinance in its entirety; and set second hearing for May 7, 2019.**
- 2. Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance; and**
- 3. Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

Approval of the proposed ordinance will amend the Ordinance Code of Fresno County ("Ordinance Code") to implement the disaster relief assessment procedures authorized in California State Revenue and Taxation Code ("R&T Code") Section 170. This item is countywide.

ALTERNATIVE ACTION:

If the recommended action is not approved by your Board, Title 4, "Revenue and Finance," of the Ordinance Code will remain unchanged and property owners in Fresno County will not be able to seek the relief provided under R&T Code Section 170.

FISCAL IMPACT:

There is no increase in Net County Cost (NCC) associated with the recommended action. Sufficient appropriations and revenues to implement the proposed ordinance are included in Assessor-Recorder Organization, 04200100 fiscal year 2018-19 Adopted Budget.

DISCUSSION:

Article XIII of the California Constitution states that, unless exempted by the Constitution, all property is taxable. Pursuant to R&T Code Sections 601 and 602, the Assessor is required to prepare an assessment roll listing all taxable property within the County, and stating, among other things, the assessed value of the property. The date of the assessment is January 1 of each year, which is also known as the "lien date" because it is the date on which taxes become a lien. Any change in the property subsequent to the lien date, such as a destruction by misfortune or calamity, would not change the current annual assessment, but

may be reflected in the assessment made on the lien date for the following year. The process creates a lengthy delay for the taxpayer to receive relief from their tax obligation after suffering a loss in value or use. The State Board of Equalization has advised the adoption of R&T Code Section 170 to provide timely relief to the taxpayer when dealing with a calamity situation.

R&T Code Section 170 provides a formal procedure for property owners to apply for disaster relief in the form of a reassessment of property damaged or destroyed due to misfortune or calamity and allows for a prorated refund of taxes paid based upon that reassessment. To qualify for relief, the damage or destruction must equal or exceed ten thousand dollars (\$10,000) and must be caused by a misfortune or calamity. California Courts have interpreted the phrase "misfortune or calamity" to mean an "unusual incident," to "require at a minimum some event out of the ordinary," and to exclude "a gradually deteriorating condition." (*T.L. Enterprises, Inc. v. County of Los Angeles* (1989) 215 Cal.App.3d 876, 880-881.) A reassessment due to misfortune or calamity may be appealed to the Assessments Appeals Board if an application is submitted within twelve months of the notice of the reassessment.

R&T Code Section 170 provides three different standards for property to be eligible for reassessment, including where damage or destruction to property is caused by:

- (1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if that property was damaged or destroyed by the major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of disaster. Under this standard, "damage" includes a diminution in the value of property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity.
- (2) A misfortune or calamity.
- (3) A misfortune or calamity that, with respect to a possessory interest in land owned by the state or federal government, has caused the permit or other right to enter upon the land to be suspended or restricted. Under this standard, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

An ordinance providing for reassessments under R&T Code Section 170 in a county may use just standard (1), just standard (2), both standards (1) and (2), both standards (2) and (3), or all three standards. The proposed ordinance provides is made applicable for all three standards.

An ordinance providing for reassessments under R&T Code Section 170 may specify a period of time for which it is effective, or it remain effective until repealed. The proposed ordinance would remain effective until repealed.

In 1983, the California Legislature created the supplemental roll specifically to provide for prorated assessments from the date of a particular event other than a lien date, such as a change in ownership or new construction. Such a prorated assessment, which is known as a supplemental assessment, may be either an increase or decrease, resulting in either an additional tax bill or a refund. Historically, the Fresno County Assessor has considered the loss due to destruction by misfortune or calamity similar to a demolition and has made supplemental assessments to decrease value, which provided a refund. This ordinance will formalize the practice of prorated disaster relief reassessments. However, since it will not substantially change the current practice of the Assessor, there will be negligible change to the overall assessment roll.

A notice that Title 4, "Finance and Revenue," of the Ordinance Code is proposed for change will be published in the Fresno Business Journal before the second reading on May 7, 2019. If your Board passes the ordinance, it will take effect 30 days after it is adopted during the second reading.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance Code of Fresno County, Chapter 4.57
Revenue and Taxation Code Section 170
On file with Clerk - Ordinance Summary

CAO ANALYST:

Ronald Alexander