



Board Agenda Item 7

DATE: October 31, 2017

TO: Board of Supervisors

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

SUBJECT: Hearing on Rescission of March 2016 Tax Sale of APN 465-107-01

RECOMMENDED ACTION(S):

- 1. Conduct hearing on rescission of the County's sale of APN 465-107-01, located at Par In Blk 92 Fairmont, at the County's March 4 - 7, 2016 sale of tax-delinquent properties; and**
- 2. Make the findings required by Revenue and Taxation Code section 3731 and adopt a resolution approving the rescission of the County's sale of APN 465-107-01.**

During the County's annual sale of tax-defaulted properties on March 4 - 7, 2016, the County sold property identified by APN 465-107-01 (Property). A bankruptcy trustee later informed the Auditor-Controller/Treasurer-Tax Collector (ACTTC) that the Property was included in a bankruptcy estate at the time of the sale and therefore should not have been sold.

ALTERNATIVE ACTION(S):

There is no viable alternative action. This hearing and determination by the Board of Supervisors is required to rescind the sale because the purchaser of the Property has not consented to rescission.

FISCAL IMPACT:

If the Board rescinds the sale, then the County would be required to issue a refund to the purchaser, Imran Sharief MD Defined Benefit Pension Plan and Trust (Purchaser) of the amount paid as the total purchase price at the tax sale (\$4,439.95), 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 due through October 31, 2017 is estimated to be \$220.42. If the order to rescind were to occur on a later date, the amount of interest would be higher.

DISCUSSION:

In March 2016, the Property was sold at the County's annual sale of tax-delinquent properties. Staff was notified in April 2017 by the office of James Salven, a local bankruptcy trustee, that the Property was included in a bankruptcy estate at the time of the tax sale and therefore should not have been sold.

Staff contacted the Purchaser in July 2017 initially by certified mail letter and by phone and explained the circumstances and asked for a rescission. Revenue and Taxation Code section 3731, subdivision (d), requires that the signatures on such a rescission be acknowledged (that is, witnessed in person) by the County Clerk, which means the documents must be executed in Fresno. The Purchaser stated that he was not opposed to the rescission but did not want to drive from his home in Southern California to Fresno to

sign the rescission document. With the Purchaser declining to personally appear to sign the rescission document, a notice of this hearing was mailed to the Purchaser on August 30, 2017, as required by Revenue and Taxation Code Section 3731, subdivision (b). In that notice, the ACTTC informed the Purchaser that, if he has any written materials, such as evidentiary documentation, written legal arguments, presentation slides, or the like, that he wishes to present to the Board of Supervisors at the hearing, he must submit those materials to the ACTTC not less than three weeks before this hearing. No such items were presented by the Purchaser at the time this agenda item was submitted.

In order to rescind the tax sale of the Property, the Board of Supervisors 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 26, 2016.
3. The Property has not become subject to a “bona find encumbrance for value” since the deed to the Purchaser was recorded on April 26, 2016.
4. The Purchaser received notice of the hearing as required by Revenue and Taxation Code Section 3731, Subdivision (b)(2)

Staff believes that all four findings can be made.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution Rescinding the Sale of Tax-Defaulted Property
On file with Clerk - Tax Deed to Purchaser of Tax-Defaulted Property dated 4-26-2016
On file with Clerk - Letter to Purchaser dated 7-19-2017
On file with Clerk - Notice of Hearing to Rescind Tax Sale dated 8-30-2017

CAO ANALYST:

Juan Lopez