



# Board Agenda Item 27

DATE: December 4, 2018

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 to do all of the following:

1. Approve and authorize the sale of tax-defaulted properties by public auction via the Internet; and
2. Direct the Auditor-Controller/Treasurer-Tax Collector to sell identified properties under Division 1, Part 6, Chapter 7 of the Revenue and Taxation Code during March 8-11, 2019; and
3. Authorize the Auditor-Controller/Treasurer-Tax Collector to reduce the minimum bids for any property for which no minimum bids were received during one or more prior public auctions of tax-defaulted property; and
4. Authorize the Auditor-Controller/Treasurer-Tax Collector to reduce the minimum bids for any property for which no minimum bids are received in the reoffering sale.

Approval of the recommended action authorizes the Auditor-Controller/Treasurer-Tax Collector (Tax Collector) to sell the tax defaulted properties listed on **Attachment 1** at a public auction via the Internet for the stated minimum bid and allow the reduction in the minimum bid if no bids are received, and at no additional increase in net County cost. Additionally, approval 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. All delinquent taxes, penalties, and costs of the sale are recovered through the sale of properties, except that some taxes, penalties, or costs may not be recovered if a property with a reduced minimum bid sells for less than the initial minimum bid. 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) and (4) 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) and (4) of the recommended resolution may result in properties not getting sold and not reverting to a revenue-generating status.

#### FISCAL IMPACT:

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.

#### 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, he or she may purchase the property during the tax sale if he or she 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.

Historically, the first year that properties are offered in the public auction of tax-defaulted property, the reduction of the minimum bid amount has not been exercised. The Tax Collector has only exercised the authorization from your Board to reduce the minimum bid for properties that remain unsold from tax sales in

prior years. In those cases, the minimum bid has ordinarily been reduced by 50 percent, and only after there has been a period with no bidding activity on the property. 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 2019, 87 parcels out of the total of 264 to be offered for sale remain unsold from tax sales in prior years. If your Board authorizes the Tax Collector to reduce minimum bids as recommended, 87 parcels of 264 total parcels may be affected during the March 8-11, 2019 tax sale. Historically, such reductions have been up to 50% of minimum bid amount. The minimum bid amount includes the cost of the sale and the total redemption amount for the property, which includes the base tax, penalties, costs and all other allowable fees under State law.

If any property is not sold at the tax sale, it may be reoffered within 90 days after the close of the March 8-11, 2019 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 87 parcels that remain unsold from prior tax sales.

REFERENCE MATERIAL:

BAI #25, December 5, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Attachment 1 - Tax Sale List

On file with Clerk - Resolution Approving a March 2019 Sale of Tax-Defaulted Properties Subject to Tax Collector's Power to Sell

CAO ANALYST:

Debbie Paolinelli