



## Board Agenda Item 22

DATE: November 5, 2019

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 2016 Sale of Tax Defaulted Properties

### RECOMMENDED ACTION(S):

**Approve one (1) resolution granting thirty-four (34) 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 twenty-one (21) claims for excess proceeds either because there are not sufficient proceeds available, because claimants failed to submit information and proof sufficient to establish a right to all or any portion of the excess proceeds, or because the claims have been satisfied by other means.**

The excess proceeds are the remaining proceeds available from the 2016 Tax Sale that the Board approved on December 15, 2015, and was conducted on March 4-7, 2016. The recommended grant of thirty-four (34) claims for excess proceeds is based on documentation submitted to the Auditor-Controller/Treasurer-Tax Collector's office (AC/TTC) establishing the claimants' rights as parties of interest in the properties pursuant to California Revenue and Taxation Code section 4675. The recommended denial of twenty-one (21) claims is based on documentation submitted to the AC/TTC for 11 claims where the claimant provided insufficient evidence and 10 claims where there are not any excess proceeds available to distribute or the claims have been satisfied by other means. August 21, 2018 was the last recommended excess proceeds item brought by AC/TTC to your Board, for the 2015 Tax Sale. 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 2016 Tax Sale Excess Proceeds are the remaining proceeds after all taxes, penalties, costs, and fees have been paid to the County of Fresno. Excess proceeds not claimed, or for which claims are not granted, will be distributed to the County under 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 \$389,339.41.

### 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 4 through March 7, 2016, tax sale resulted in excess proceeds totaling \$1,225,530.10 from 36 of the 55 sold parcels. This item resolves the 36 parcels with excess proceeds. There were 55 claims filed and 8 of the parcels with excess proceeds had no claimants for excess proceeds.

The AC/TTC receives excess proceeds claims through the mail or over the counter in the Tax Collector's office. AC/TTC staff reviews all claims and supporting documents to see whether they show that the claimant has a right to some or all 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-March 2016 Supporting Documentation for Excess Proceeds Resolutions."

On October 25, 2019, 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 \$836,190.69. 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 21 claims for which staff is recommending denial for the following reasons: 11 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; 10 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 #21, August 21, 2018  
BAI #22, January 31, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

Debbie Paolinelli