



Legislation Details (With Text)

File #: 16-1003

On agenda: 1/31/2017

Final action: 1/31/2017

Enactment date:

Enactment #: Resolution No. 17-022 through Resolution No. 17-063, Resolution No. 17-064 through Resolution No. 17-079, Resolution No. 17-080 through Resolution No. 17-089, Resolution No. 17-090

Title: Approve forty-two (42) resolutions granting forty-one (41) 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 approve twenty-seven (27) resolutions denying 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 claim is being satisfied by other means

Attachments: 1. Agenda Item, 2. Supporting Documentation for 69 Resolutions, 3. Resolution No. 17-022 through Resolution No. 17-063, 4. Resolution No. 17-064 through Resolution No. 17-079, 5. Resolution No. 17-080 through Resolution No. 17-089, 6. Resolution No. 17-090

Date	Ver.	Action By	Action	Result
1/31/2017	1	Board of Supervisors	Approved (Consent Agenda)	Pass

DATE: January 31, 2017

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 2014 Sale of Tax Defaulted Properties

RECOMMENDED ACTION(S):

Approve forty-two (42) resolutions granting forty-one (41) 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.

Approve twenty-seven (27) resolutions denying 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 claim is being satisfied by other means.

The excess proceeds are the remaining proceeds available from the 2014 Tax Sale that your Board approved on December 3, 2013 and was conducted on March 7-10, 2014. The forty-two (42) recommended resolutions granting forty-one (41) claims for excess proceeds are based on documentation submitted to the Auditor-Controller/Treasurer-Tax Collector's office (AC/TTC) establishing their rights as a party of interest in the property pursuant to California Revenue and Taxation Code section 4675. The 27 recommended resolutions denying claims resulted from 16 claims where there are not any excess proceeds available to distribute, 10 claims where the claimant provided insufficient evidence, and 1 claim that will be satisfied by other means.

September 1, 2015 was last recommended excess proceeds item brought by AC/TTC to your Board, for the 2013 Tax Sale.

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 2014 Tax Sale Excess Proceeds are the remaining proceeds after all taxes, penalties, costs, and fees have been satisfied to the County of Fresno. Therefore, approval of the recommended action will have no fiscal impact to the County's General Fund.

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 7 through March 10, 2014, tax sale resulted in excess proceeds totaling \$1,524,438 from 50 of the 89 sold parcels. There were 72 claims filed on 34 of the 50 parcels with excess proceeds and 16 of the 50 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 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 2014 Supporting Documentation for Excess Proceeds Resolutions."

On December 29, 2016, 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.

There are 41 claims for which 40 claims are requesting 1 payment distribution to be made and 1 claim is requesting 2 separate payment distributions, therefore staff is recommending 42 resolutions for payment distribution approval. Payments for claims granted under the recommended resolutions total \$1,091,611. 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 27 claims for which staff is recommending denial for the following reasons: 16 of the claims should be denied because there are not sufficient excess proceeds to pay those claims; 10 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; 1 claim should be denied because the claimant will be satisfied by other means.

For one property sold at the 2014 Tax Sale, there were four timely claims that are not presented to the Board for distribution with this item. On June 16, 2015, the petitioner of this item petitioned the Board to rescind the

sale of that property, which the Board denied. After that denial, the petitioner filed a lawsuit to rescind the sale. A final court order has not been issued in this lawsuit. Under Revenue and Taxation Code section 4675, subdivision (e)(2)(a), excess proceeds shall not be distributed until a final court order is issued in that action.

REFERENCE MATERIAL:

BAI #19, December 3, 2013
BAI #18.1, June 16, 2015
BAI # 19, September 1, 2015

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (42 - Granting Distribution of Proceeds)
On file with Clerk - Resolutions (16 - Insufficient Excess Proceeds Available)
On file with Clerk - Resolutions (10 - Insufficient Evidence)
On file with Clerk - Resolutions (1 - Satisfied by Other Means)
Supporting Documentation for 69 Resolutions

CAO ANALYST:

Deborah Paolinelli