



# Board Agenda Item 5

DATE: September 9, 2025

TO: Board of Supervisors

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

SUBJECT: Hearing on Petition to Rescind June 2025 Tax Sale of APN 460-123-02

## RECOMMENDED ACTION(S):

- 1. Conduct hearing on petition by attorney Trevor D. Martin on behalf of Tina A. Lopez, daughter of previous Assessee of the property, Martin C. Lopez, to rescind the County's sale of APN 460-123-02, described as "3718 E Washington Fresno", at the County's June 13, 2025, sale of tax-defaulted properties; and**
- 2. If the Board determines that it can make the findings necessary to rescind the sale, adopt resolution granting the petition.**

The property identified by Assessor's Parcel Number (APN) 460-123-02 (Subject Property) was sold at the County's annual sale of tax-defaulted properties on June 13, 2025 (Tax Sale). Before the Tax Sale, the Property was assessed to Martin C. Lopez (Previous Assessee). The Purchasers of the Property at the Tax Sale were Gurbir S Sapraj and Sunjit Sapraj (Purchasers) in the form of tenancy in common. On June 25, 2025, Trevor D. Martin an attorney on behalf of Tina A. Lopez (Petitioner), submitted a letter petitioning to rescind that sale and requesting a hearing on that petition (Petition). The recommended action allows Petitioner to present their case for rescission and gives the Purchasers an opportunity to present their objections to the petition, if any. This item pertains to a location in District 3.

Staff recommends that your Board deny the petition.

## ALTERNATIVE ACTION(S):

There is no alternative action. The Petitioner has a right to a hearing before your Board on this matter, and an obligation to request such a hearing before they may file a lawsuit against the County on this matter, if they wish to do so (Revenue and Taxation Code § 3725(a)(1)).

## FISCAL IMPACT:

If your Board rescinds the sale, the County would be required to issue a refund to the Purchasers, Gurbir S Sapraj and Sunjit Sapraj, of the amount paid as the total purchase price at the Tax Sale (\$136,950.70), plus interest at the greater of 3% annually or the County pool apportioned rate from the date of the purchase, when the payment was paid in full and the sale was consummated, until the date of the rescission. Interest that would be due through September 9, 2025, is estimated to be \$968.04. If the refund occurs later, the amount of interest would be higher. The calculation of the interest is based on the Revenue and Taxation Code § 5151. If your Board decides not to rescind the sale, then there would be no Net County Cost because there would not be a refund.

## DISCUSSION:

Before the Tax Sale, the Auditor-Controller/Treasurer-Tax Collector ("ACTTC") issued all legally required notices. These included sending tax bills to the Previous Assessee at the address they provided, as well as recording a Notice of Power to Sell on July 15, 2024. Additionally, a notice of the tax sale was mailed via certified mail on January 13, 2025, to the address that was provided by the Previous Assessee.

On January 30, 2025, a representative from Unlatch, a real estate and probate services company, acting on behalf of the heir to the Property, requested a postponement of the tax sale stating that a court hearing was scheduled for May 6, 2025, to finalize the title and proceed with the sale of the property. According to the request, a purchase agreement had been completed between the heir and the buyer, but the probate process was still pending to officially name the heir. The ACTTC reviewed the submitted documentation and determined there was a likelihood that full payment to redeem the property could be made within 90 days.

On February 10, 2025, the ACTTC approved the request to postpone the tax sale of the property for up to 90 days pursuant to Revenue and Taxation Code section 3706.1, recommending the requestor work expeditiously to ensure that the property was redeemed during the postponement period, either by payment of the then-current redemption amount by some person, or by sale and payment from proceeds out of escrow.

On February 11, 2025, Unlatch confirmed their understanding that the intention was to complete a sale of the property before the postponed tax sale. Unlatch's representative confirmed that the proposed postponed tax sale date of June 6, 2025, would provide sufficient time to complete the sale and finalize the payment. In fact, the re-offer tax sale which included the postponed March 2025 parcels was conducted a week later than that, on June 13, 2025. That allowed for even more time for the sale to be completed.

On June 13, 2025, the Subject Property was sold at a public tax sale auction by the ACTTC, for the price of \$136,950.70 to the Purchasers.

On June 17, 2025, the ACTTC received an email from the Petitioner asking for advice of the County's intention to rectify this sale. On June 18, 2025, the ACTTC responded that the tax sale was completed.

On June 25, 2025, the Petitioner submitted to the Board for hearing and requested a rescission on the subject property. The letter subject "Petition to Rescind Tax Sale of 3718 E. Washington Avenue, Fresno, CA 93702, Property Parcel No. 460-123-02, Estate of Martin C. Lopez, Fresno County Superior Court Case No. 24CEPR01946". In that letter, the Petitioner requested to rescind the June 13, 2025 Tax Sale of the Property. The reasons provided included the following:

The Petitioner said that the Fresno County Superior Court delayed processing the submitted probate documents. The Order was received on May 5, 2025, but was not signed by the court until June 6, 2025.

The Petitioner stated their belief that "Because County was aware that the property was in escrow and the email stated that notices would be sent, the purchasers believed in good faith that they would be provided, at a minimum, a courtesy notice or email regarding the sale."

Ms. Lopez stated that she did not see the personal contact notification affixed to the Property.

The Petitioner said that the County did not provide a receipt for the certified mailing of the tax sale notification.

The Petitioner requested a hearing under Revenue and Taxation Code section 3731. That section provides for a hearing before your Board on a request to rescind the sale of tax-defaulted property.

After receiving the Petition, the ACTTC gave notice of the hearing to the Purchaser as required by law (Revenue and Taxation Code § 3731(b)). The notice was sent on July 3, 2025. With that notice, the ACTTC informed both the Petitioner and the Purchasers that, if they had any written materials, such as evidentiary documentation, written legal arguments, presentation slides, or the like, that they wished to present to your Board at the hearing, they must submit those materials to the ACTTC no later than three weeks before the hearing, which was September 9, 2025.

During the hearing, the ACTTC intends to address the claims made by the Petitioners regarding the approval of postponement of the tax sale, delay in the probate processes, the personal contact visit to the Property, and the duty of the ACTTC when it comes to notification.

The ACTTC has fulfilled its due diligence obligations in accordance with Revenue and Taxation Code (RTC) §3361 by making the required public notifications. Additionally, the County has satisfied the notice requirements under RTC §3701 by mailing notices to the address listed on the petition. Further efforts were made to locate the petitioner through skip tracing, demonstrating the County's commitment to ensuring all reasonable steps were taken to provide proper notice

### **Findings Required to Rescind the Sale of Tax-Defaulted Property**

To rescind the Tax Sale of the Property, your Board must make the following findings, based on the testimony, documents, and arguments presented during the hearing:

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 June 30, 2025.
3. The Property has not become subject to a “bona fide encumbrance for value” since the deed to the Purchaser was recorded on June 30, 2025.
4. The Purchaser received notice of the hearing as required by Revenue and Taxation Code Section 3731, subdivision (b)(2)

Staff believes, and will recommend to your Board, that there is not sufficient evidence to make the first required finding. Examples of when property “should not have been sold” at a tax sale include: (1) when the property was timely redeemed, but then erroneously listed for auction and sold; (2) when the property owner filed for bankruptcy, which should have stopped the sale, but the Tax Collector proceeded to sell the property anyway; or (3) when the Tax Collector failed to give all notices required by law before the sale. In this case, the Property was not redeemed, there was no bankruptcy filing, and the Tax Collector gave all notices required by law before the sale. The Tax Collector also made reasonable efforts to find the address of the Previous Assessee. Although the Petitioner argues that the Tax Collector was *also* obligated to seek out *his* address, as the trustee and attorney for the Previous Assessee, that is not the requirement of the law.

### **Excess Proceeds**

The Petitioner has been notified by the Notice of Tax Sale that, if the sale of the Subject Property is sold at auction, he has the right to claim excess proceeds that remain after the tax and assessment liens and costs of sale are satisfied. There is \$122,266.33 in excess proceeds from the Tax Sale of the Property. The Petitioner may submit his claim for excess proceeds to Tax Collector Office before June 30, 2026 filing deadline.

Under Revenue and Taxation Code section 4675, subdivision (e)(2)(A), however, because your Board has

been petitioned to rescind the Tax Sale of the Property, if your Board determines that the sale should not be rescinded, then excess proceeds may not be distributed until one year after the date of that determination, and only if the Petitioner does not commence a proceeding in court to challenge the Tax Sale of the Property.

REFERENCE MATERIAL:

BAI # 24, December 17, 2024

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Petition to Request for Hearing Regarding Property Parcel No. 460-123-02

On file with Clerk - Resolution Granting the Petition

On file with Clerk - Tax Collector 45 Day Notice

Presentation

CAO ANALYST:

Paige Benavides