

Gordon R. Ford

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Treasurer-Tax Collector

BOARD AGENDA # *B-8

Urgent

Routine

AGENDA DATE June 10, 2014

CEO Concur with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approve the Distribution of Excess Proceeds of \$247,262.61 from the February 27, 2013 Sale of Tax-Defaulted Properties

STAFF RECOMMENDATIONS:

Authorize the Auditor's Office to issue checks totaling \$247,262.61 per the list of claims for excess proceeds submitted in accordance with Revenue and Taxation Code Section 4675.

FISCAL IMPACT:

There is no fiscal impact as this is a request to pay out funds held in trust since February 27, 2013.

BOARD ACTION AS FOLLOWS:

No. 2014-272

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, Monteith, and Chairman De Martini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

In February of each year, the Treasurer-Tax Collector sells, at public auction, real property that has taxes unpaid for a period of five years. After the auction, the Treasurer-Tax Collector performs the following:

1. Records a deed for each parcel sold;
2. Notifies interested parties if excess proceeds exist;
3. Accepts claims for excess proceeds for a period of one year following the recording of the deed; and,
4. Subsequently recommends to the Board the distribution of any excess proceeds that have been claimed.

Twenty-three of the properties from the February 27, 2013 sale of tax defaulted property had excess proceeds. Twenty-one were distributed per agenda item *B-15 dated April 29, 2014, with the following two held for further research to determine the validity of the claims. This research has been completed.

The attached claims for excess proceeds from the February 27, 2013 sale of tax-defaulted property were submitted within one year period and are provided for the Board of Supervisor's approval pursuant to Revenue and Taxation Code Section 4675.

These claims were reviewed by both the Treasurer-Tax Collector and County Counsel. The Treasurer-Tax Collector have established the claimant's rights to the excess proceeds, as set forth below, after further research and the documentation submitted.

APN 064-028-009-000 was identified in a bankruptcy proceeding, which had been dismissed in 2012 before the 2013 tax sale. The bankruptcy estate, the first claimant of right, through Gary Farrar, Trustee reopened the bankruptcy proceeding and claimed the excess proceeds for distribution. After discussions, the Trustee determined this parcel had been abandoned during the bankruptcy and removed from the estate. Thus, the Trustee released its interest in the excess proceeds from the tax sale. The next claimant was Beneficial California, who had the first Deed of Trust. Beneficial validly assigned its rights and interest to Global Discoveries who filed a claim for the excess proceeds.

APN 104-026-011-000 was not identified as part of the estate in the debtor's bankruptcy proceeding, which had been dismissed a couple of years before the 2013 tax sale. As a result, the bankruptcy estate, the first claimant of right, through Gary Farrar, Trustee reopened the bankruptcy proceeding and validly claimed the excess proceeds for distribution. The proceeds will be distributed from the estate to creditors. City of Modesto with a more recent lien has been informed of the reopened bankruptcy and has been given the opportunity file a claim and seek proceeds based on its lien in that matter.

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Page 3

We recommend that the Board of Supervisors authorize the following excess proceeds distribution:

APN	Amount Available	Claimant	Claim Amount	Recommend
064-028-009-000	\$ 227,659.14	Global Discoveries Ltd on Behalf of Beneficial of CA	\$ 227,659.14	\$ 227,659.14
		Gary Farrar Chapter 7 Trustee	\$ 227,659.14	\$ -
		USDA	\$ 121,375.09	\$ -
		Manuel H Sousa	\$ 9,204.31	\$ -
		Franchise Tax Board	\$ 8,353.08	\$ -
		Terry Brandenburg	\$ 227,659.14	\$ -
		Global Discoveries Ltd on Behalf of Theodore Vierra	\$ 227,659.14	\$ -
TOTAL				\$ 227,569.14
104-026-011-000	\$ 19,603.47	Gary Farrar Chapter 7 Trustee	\$ 19,603.47	\$ 19,603.47
		City of Modesto	\$ 19,603.47	\$ -
TOTAL				\$ 19,603.47
GRAND TOTAL				<u>\$ 247,262.61</u>

POLICY ISSUES:

The request is being made in accordance with Part 8, Chapter 1.3, Sections 4675 and 4676 of Revenue and Taxation Code. The County has complied with the required provisions of this chapter.

Approval of this agenda item will support the Board's priority of Efficient Delivery of Public Services.

STAFFING IMPACT:

There is no staffing impact associated with this agenda item.

CONTACT PERSON:

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