



COUNTY OF MENDOCINO

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DATE: MARCH 27, 2012
TO: HONORABLE BOARD OF SUPERVISORS
FROM: SHARI L. SCHAPMIRE, TREASURER-TAX COLLECTOR
RE: BROOKTRAILS DELINQUENT PROPERTY TAXES

Introduction

Under California law, after a period of five years from the first year of tax-default, during which time the assessee retains the legal title to the property and has the privilege of redeeming it upon payment of the amount due, the tax collector records a Notice of Power to Sell Tax-Defaulted Property. Such property is subject to redemption as long as the property is not sold at auction. The tax collector has the authority to sell the tax-defaulted property at public auction, the minimum price at which property may be offered for sale, pursuant to Revenue and Taxation Code §3698.5(a), is an amount not less than the total amount necessary to redeem, plus costs.

Any parcels remaining unsold may be re-offered at a new sale within 90 days of the original sale date, pursuant to Revenue and Taxation Code §3692(e), with the option to offer the remaining parcels at a reduced minimum price, pursuant to Revenue and Taxation Code §3698.5(c).

The fact that anyone should lose their property for non-payment of property taxes is regrettable. Our tax laws, however, afford landowners and parties of interest fair notice, a liberal period of redemption, and adequate opportunities to contest irregularities. The primary purpose of public auction sales is to collect the unpaid taxes and to return the property to a revenue-generating status by conveying the property to another owner. Offering property for sale achieves this by either selling the property or forcing redemption.

Successful execution of the public auction process is an imperative component of the "Teeter Plan," an alternative procedure for the distribution of property tax revenue. On July 6, 1993, per Resolution 93-112, the Board of Supervisors adopted this alternative procedure whereby all property taxes and assessments are apportioned to the taxing jurisdictions by the Auditor regardless of paid status. As referenced above, through the public auction process, property taxes are either paid by the existing owner or received through proceeds collected at the public auction; the previously uncollected taxes, assessments, and penalties, are then applied to the Teeter Plan debt that the county has accumulated through "fronting" the apportionments of unpaid taxes to the taxing jurisdictions.

Summary of Issue

Public auctions are routinely conducted on an annual basis and are primarily comprised of parcels located in the Brooktrails Subdivision. The Brooktrails Subdivision contains approximately 6,000 parcels, of which 4,216 parcels remain unimproved vacant lots. From time to time, the tax collector has experienced difficulties in selling the vacant lots at public auction; prior to 2007, most of the vacant lots eventually culminated in a successful sale of the property. Even with full disclosure of the water moratorium imposed by the California State Department of Health Services in February 2003, vacant lots would intermittently sell at public auction.

However, since the recession of 2007, there has been a notable increase of Brooktrails parcels that appear to be unsellable.

In 2009-10, 41 Brooktrails parcels were authorized by the Board of Supervisors to be sold at public auction; three parcels were redeemed prior to the sale, four parcels were removed prior to the sale, one parcel was sold at the sale, and 33 parcels were offered but not sold. After the discouraging results of the public auction conducted during the 2009-10 fiscal year, it was determined by the tax collector that an Internet Auction should be attempted; perhaps with a wider Internet audience, the parcels would sell.

In 2010-11, the first Internet Public Auction was conducted, 57 Brooktrails parcels were authorized by the Board of Supervisors to be sold at public auction; six parcels were redeemed prior to the sale, three parcels were removed prior to the sale, seven parcels were sold at the sale, and 41 parcels were offered but not sold. While there was slight improvement from the previous year, results were still disappointing. The 2011-12 Public Auction just authorized by the Board of Supervisors on March 13, 2012 is comprised of 74 Brooktrails parcels – 41 unsold parcels from 2010-11 and 33 new parcels.

Two additional concerns involving Brooktrails parcels are (1) Measure E – Brooktrails Township CSD Special Fire Tax Increase – if this measure is successful, the Brooktrails Fire Direct Assessment collected on the property tax bill each year would increase by \$60 per vacant lot, this may increase the delinquency rate on vacant lots; (2) a major property owner, who has been a major marketer of Brooktrails parcels over the past two decades, has neglected to pay property taxes for almost four years on 147 Brooktrails parcels.

The legislation governing the application of the Teeter Plan is detailed in Revenue and Taxation Code §4701-4717. Per Revenue and Taxation Code §4702.7, in any county electing to follow the procedure authorized by this chapter, the board of supervisors, by resolution adopted in accordance with Section 4702, after holding a public hearing on the matter, may discontinue those procedures with respect to any tax levying agency or assessment levying agency in the county if the rate of secured tax delinquency in that agency in any year exceeds 3 percent of the total of all taxes and assessments levied on the secured rolls in that agency. In light of the Brooktrails situation, it is recommended the Board of Supervisors consider the option to implement Revenue and Taxation Code §4702.7.

Concerns have arisen by the Debt Committee (Carmel Angelo, Kyle Knopp, Meredith Ford, Lloyd Weer, Jeanine Nadel and Shari Schapmire) regarding the possibility that the vast majority of Brooktrails parcels may be unsellable through the public auction process. In light of the current level of delinquencies, as well as the possibility of substantially increased delinquency rates if additional fire assessments are approved by the electorate, the Auditor has been reviewing the delinquency rates throughout the county for a comparison to Brooktrails. As the overall county delinquency rate at the end of each fiscal year is typically in the 4-5 percent range, it is preliminarily determined that all tax and assessment levying agencies will exceed the 3 percent threshold referenced in Revenue and Taxation Code §4702.7; however, Brooktrails is the only taxing agency where parcels in the district appear to be unsellable through the public auction process.

Recommended Motion

Per Revenue and Taxation Code §4702.7, schedule a public hearing on the Brooktrails delinquent tax matter to discuss discontinuance of the alternative procedure of property tax distribution known as the “Teeter Plan.”

Other Considerations

- 1) Direct staff to bring back the item after the conclusion of the May 2012 Public Auction.
- 2) Direct staff to bring back the item after the conclusion of the May 2012 Public Auction and the July 2012 Re-offer Public Auction of unsold parcels. This option would fall after the July 15th deadline referenced in Revenue and Taxation Code §4702(a), thereby, delaying any changes in the apportionment of property taxes until the 2013-14 fiscal year.