



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: October 20, 2015

Subject: Hearing to Consider Claim for Property Tax Refund filed on behalf of Lafayette Christian Church

RECOMMENDATION(S):

1. CONTINUE HEARING to determine whether the Lafayette Christian Church is entitled to a refund of property taxes, under Section 214(a) of the California Revenue and Taxation Code, paid for the 2014/15-tax year on residential real property located at 3213 Sharon Court in Lafayette, California; CLOSE the public hearing. CONSIDER whether the evidence presented supports the claim that the subject property was exempt from the payment of property taxes in 2014/15; APPROVE or DENY the claim.
- 2.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **10/20/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Karen Mitchoff, District IV Supervisor

NO: Mary N. Piepho, District III Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 20, 2015

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Lisa Driscoll, (925)
335-1023

cc:

RECOMMENDATION(S): (CONT'D)

If the claim is approved, AUTHORIZE and DIRECT the Auditor-Controller to refund monies paid for property taxes for the FY 2014/15-tax year in the approximate amount of \$9,742.74.

FISCAL IMPACT:

If the claim is granted, the County's portion of the refund in the amount of approximately \$1,196 will be paid from the County General Fund.

BACKGROUND:

On September 15, 2015, a hearing was held before this Board on the claim filed by the Lafayette Christian Church ("Church") for a Revenue and Taxation Code section 214(a) welfare exemption and refund of 2014/15 property tax it paid for church owned, residential real property located at 3213 Sharon Court in Lafayette ("Property"). A copy of the Church's June 22, 2015, claim for exemption is attached to this Board Order as **Attachment A**.

Testimony was given at the hearing by Alaine Brandt on behalf of the Church. Ms. Brandt testified that the Property was only used for exempt religious activities during the relevant period. She confirmed that these activities included use of the Property as a parsonage where their minister lived from March 1, 2013 through October 1, 2013. Though the parsonage was temporarily vacant during the lien period, Ms. Brandt explained that it served as a recruitment tool in the Church's search for a new minister from late 2013 through early 2014. Ms. Brandt also indicated that the Property was used as a place to hold Church related meetings, as place to repair church furniture, and a place to store items such as furniture, appliances and supplies from the church. The residence was not used for any non-church related activities.

A PowerPoint presentation was made by Beth Grose, Principal Appraiser for the Contra Costa County Assessor's Office explaining the reasons why the Assessor does not believe the welfare exemption is warranted. A copy of the PowerPoint presentation is attached to this Board Order as **Attachment B**. On June 17, 2014, the Assessor's Office wrote to the Church denying the claim for refund on the basis that the property was not used as a parsonage on January 1, 2014, the statutory date used to determine eligibility for the exemption for 2014-2015 tax year. The Assessor's Office maintained that the property did not qualify for an exemption because the vacant property was not being used for a religious purpose. According to the Assessor's Office, the Church's stated intention to continue to use the house as a parsonage and their description of other church related activities that continued to take place there was not sufficient to establish the type of religious purpose that would qualify the property for a welfare exemption under Revenue and Taxation Code section 214.

Under Revenue and Taxation Code section 214, property that is used exclusively for

religious purposes may be eligible for an exemption from ad valorem property taxation if a taxpayer applies for a welfare exemption. Housing used for religious purposes may fall within this exemption. See, e.g., *In House of Rest of the Presbyterian Church in the USA v. County of Los Angeles* (1957) 151 Cal.App.2d 523. If a property does not fall into the category of housing used for religious purposes, it may still be found to be exempt if it was exclusively being used for other religious purposes. In such a case, the taxpayer may be eligible for a refund of property taxes paid on the basis that taxes should not have been levied on the property. [Rev. & Tax. Code, §§ 5096(c), 5097(a)(2).] The Board of Supervisors has discretion to determine whether the taxpayer qualifies for the refund of property taxes. A memorandum from the County Counsel's Office that further discusses the legal criteria applicable to the Board's consideration of the evidence in this matter is attached as **Attachment C**.

To be eligible for 100 percent of the exemption, the deadline for submitting a welfare exemption claim is on or before February 15. When a claim is not filed on or before February 15 but is filed before January 1 of the next calendar year, the greater of (1) 90 percent of any tax, penalty, or interest or (2) any tax, penalty or interest exceeding \$250 in total, may be canceled or refunded. In this instance, the taxpayer filed on March 24, 2014, two months after the February 15, 2014 filing deadline for the 2014-2015 year. If the Board determines that the property located at 3213 Sharon Court in Lafayette should have been eligible for the welfare exemption for the 2014-2015 tax year, the Lafayette Christian Church would be eligible for the full amount of \$9,992.74 less \$250, or \$9,742.74.

Property tax refunds ordered by the Board are paid by the Auditor-Controller. [Rev. & Tax. Code, § 5101; see also Rev. & Tax. Code, § 5151.]

CONSEQUENCE OF NEGATIVE ACTION:

Failure to take the recommended action may prevent the Lafayette Christian Church from having its claim concerning the property-tax exempt use of the property heard.

CLERK'S ADDENDUM

Speakers from Lafayette Christian Church: Elaine Brandt, (handout attached); Richard Black, Joseph F. Warren (letter attached). CLOSED the hearing; APPROVED the claim; and AUTHORIZED and DIRECTED the Auditor-Controller to refund monies paid for property taxes for the Fiscal Year 2014/15-tax year in the approximate amount of \$9,742.74.

ATTACHMENTS

Attachment A

Attachment B

Attachment C