



**Contra
Costa
County**

To: Board of Supervisors
From: Russell Watts, Treasurer-Tax Collector
Date: August 9, 2016

Subject: Rescission of Tax Sale

RECOMMENDATION(S):

- (1) OPEN the public hearing to consider whether the tax sale of Assessor's Parcel Number 410-152-034 to Emmanuel V. Okereke should be rescinded;
- (2) RECEIVE and CONSIDER the submissions and statements concerning rescission of the tax sale of Assessor's Parcel Number 410-152-034;
- (3) CLOSE the hearing;
- (4) ORDER the tax sale of Assessor's Parcel Number 410-152-034 to Emmanuel V. Okereke rescinded and AUTHORIZE the Treasurer-Tax Collector to take the necessary steps to effectuate the rescission in accordance with the Revenue and Taxation Code;
- (5) AUTHORIZE and DIRECT the Auditor-Controller to refund the total purchase price of \$65,342.00 with interest as determined under Revenue and Taxation Code section 5151.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/09/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Mary N. Piepho, District III
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: Candace Andersen, District II
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: August 9, 2016

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

By: June McHuen, Deputy

Contact: Brice Bins, (925)
957-2848

cc:

FISCAL IMPACT:

The purchase price will be refunded to the tax sale purchaser from the Tax Sale Trust Fund and the interest rate on the purchase price will be refunded to the tax sale purchaser from the General Fund at the rate determined under Revenue and Taxation section 5151.

BACKGROUND:

The parcel that is the subject of the rescission is Assessor's Parcel Number 410-152-034 (the "Property"), an unimproved property located on California Avenue in San Pablo. The Property became tax defaulted on July 1, 2010 for non-payment of secured property taxes and, in accordance with Revenue and Taxation Code section 3691, the Treasurer-Tax Collector recorded the power to sell the Property on July 1, 2015. During the Treasurer-Tax Collector's public auction of tax-defaulted property on February 23, 2016, Emmanuel V. Okereke purchased the Property for \$65,342.00, an amount sufficient to satisfy the delinquent secured property taxes, including the transfer tax. The tax deed to Mr. Okereke was recorded on March 11, 2016.

On April 4, 2016, the County received an objection to the tax sale from the previous owner of the property, Jose Francisco Penado. Mr. Penado claimed that the Property had been sold at auction without his knowledge. After review of the objection from Mr. Penado, the Treasurer-Tax Collector's Office determined that the Assessor's Office had not updated their records to reflect Mr. Penado's purchase of the Property in 2009. Therefore, the Treasurer-Tax Collector's Office had notified the previous owner of record of the tax sale, rather than Mr. Penado.

After considering Mr. Penado's objection, the Treasurer-Tax Collector determined the sale should be rescinded on the grounds that Mr. Penado was not sent the required statutory notice of the tax sale. The Assessor's Office concurs that a rescission of the tax sale for the Property is warranted under the circumstances. Based on this conclusion, the Treasurer-Tax Collector sent an April 28, 2016 letter to the purchaser, Mr. Okereke, requesting that he consent to rescind the sale. However, Mr. Okereke has not agreed to do so to date.

Pursuant to Revenue and Taxation Code section 3731, if the written consent of the purchaser of the Property or a successor in interest is not obtained, the sale may be rescinded by the Board of Supervisors when both of the following conditions are met:

- (1) A hearing is scheduled before the Board of Supervisors; and
- (2) A notification is provided to the purchaser of the hearing scheduled before the Board of Supervisors.

These statutory conditions have been met. The Treasurer-Tax Collector has notified all interested parties, which include the purchaser and the previous owner of the Property, of the hearing time and place concerning rescission of the tax sale. County Counsel has also provided written consent to the rescission as required under Section 3731.

There are no statutory impediments to the rescission because the Property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value and it has not become subject to a bona fide encumbrance for value subsequent to recordation of the tax deed. In addition, in connection with the tax sale, Mr. Okereke accepted the Treasurer-Tax Collector's Public Auction Terms and Conditions, which provide that if the Treasurer-Tax Collector determines the Property should not have been sold, Mr. Okereke will consent to rescission of the tax sale.

If the Board concurs with the Treasurer-Tax Collector and rescinds the sale, Mr. Penado, as the owner of the Property, will be responsible for the delinquent and current taxes and assessments that are owed on the Property and any associated charges. When the rescission is recorded, the sale becomes null and void, as though it never occurred.

CONSEQUENCE OF NEGATIVE ACTION:

If the rescission is not approved, the tax sale will not be rescinded without court intervention.

CLERK'S ADDENDUM

CLOSED the hearing; ORDERED the tax sale of Assessor's Parcel Number 410-152-034 to Emmanuel V. Okereke rescinded and AUTHORIZED the Treasurer-Tax Collector to take the necessary steps to effectuate the rescission in accordance with the Revenue and Taxation Code; AUTHORIZED and DIRECTED the Auditor-Controller to refund the total purchase price of \$65,342.00 with interest as determined under Revenue and Taxation Code section 5151.

ATTACHMENTS

Attachment 1
Attachment 2
Attachment 3
Attachment 4
Attachment 5
Attachment 6
Attachment 7
Attachment 8