



**Contra
Costa
County**

To: Board of Supervisors
From: Thomas L. Geiger, Chief Assistant County Counsel
Date: February 7, 2023

Subject: Deny claims filed for unitary property taxes paid for tax year 2022/23

RECOMMENDATION(S):

DENY the claims filed by Sprint Spectrum, LP, Sprint Communications Company, LP, Pacific Bell, AT&T Corp., AT&T Mobility LLC, T-Mobile West LLC, and CenturyLink Communications LLC in the total amount of \$1,511,730.83, plus interest, in unitary property taxes paid for tax year 2022/23.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Sprint Spectrum, LP, Sprint Communications Company, LP, Pacific Bell, AT&T Corp., AT&T Mobility LLC, T-Mobile West LLC, and CenturyLink Communications LLC (collectively, "Claimants") have filed claims for refund of property taxes against the County and a number of other counties, essentially alleging that the statutory formula used to calculate their property tax rate violates the California Constitution.

In January 2023, Sprint Spectrum, LP submitted a claim to the County in the amount of \$16,460.68; Sprint Communications Company, LP submitted a claim in the amount of

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/07/2023** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV 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: February 7, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Rebecca Hooley, Assistant County Counsel, (925) 655-2200

By: Stacey M. Boyd, Deputy

\$14,212.20; Pacific Bell submitted a claim in the amount of \$689,464.00; AT&T Corp. submitted a claim in the amount of \$72,202.00; AT&T Mobility LLC submitted a claim in the amount of \$435,276.00; T-Mobile West LLC submitted a claim in the amount of \$245,440.47; and CenturyLink Communications LLC submitted a claim in the amount of \$38,675.48. [The claims are provided in Attachments A-G.] The claims, in the collective amount of \$1,511,730.83, are for the first installment of property taxes paid for tax year 2022/2023. Claimants request interest on the requested refund amounts.

Some of these claimants have submitted refund claims for prior years based on the same allegation, which the County has denied. Other counties that have received similar refund claims from these claimants appear to have uniformly denied the claims. Santa Clara County recently prevailed before the Court of Appeal on the basis that the statutory tax rate imposed on property owned by these entities does not violate the California Constitution.

BACKGROUND: (CONT'D)

ANALYSIS:

Under the California Constitution, certain property owned or used by utilities and telecommunication companies, among others, is annually assessed by the State Board of Equalization ("BOE"). (Cal. Const., article XIII, § 19.) The amount of such "unitary property" assessments attributed to the County by the BOE are then taxed by the County in accordance with a statutory formula. (See Rev. & Tax. Code, § 100.)

The Auditor-Controller uses the amount of unitary property assessments annually provided by the BOE to calculate the amount of taxes to be levied on these properties in accordance with a formula mandated by state law (Rev. & Tax. Code, § 100). Based on this formula, the unitary tax rate for 2022/23 is 1.8499%. The Auditor-Controller has confirmed that the rate was correctly calculated pursuant to the State law, and the Office of the State Controller has deemed it correct.

Claimants argue that they are entitled to a partial refund of taxes on the grounds that they were illegally levied because the formula used to calculate the rate is unconstitutional. However, the County is given no discretion on its calculation of the unitary tax rate; it is a mandated formula set by the State. A recent decision from the California Court of Appeals has affirmed the constitutionality of the rate. (*County of Santa Clara v. Sup. Ct.* (Jan. 6, 2023, No. H049161) ___ Cal.App.5th ___.)

The refund requests are also premature. Claimants have only paid a portion of the property taxes for 2022-23. Tax disputes must be resolved after the taxes at issue have been paid. (See *Flying Dutchman Park, Inc. v. City and County of San Francisco* (2001) 93 Cal.App.4th 1129, 1139.) For these reasons, the claims should be denied.

ATTACHMENTS

Attachment A - Claim of Sprint Spectrum LP

Attachment B - Claim of Sprint Communications Company LP

Attachment C - Claim of Pacific Bell

Attachment D - Claim of AT&T Corp.

Attachment E - Claim of AT&T Mobility LLC

Attachment F - Claim of T-Mobile West LLC

Attachment G - Claim of CenturyLink Communications LLC