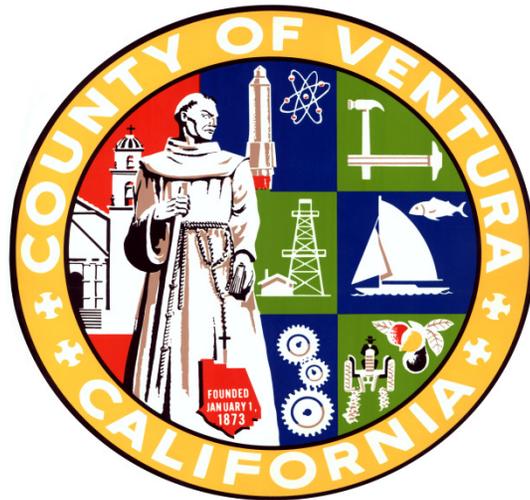


Ventura County Grand Jury 2018 - 2019



Final Report

Transparency in the Sale of Tax-Defaulted Property to Nonprofits

April 10, 2019

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Transparency in the Sale of Tax-Defaulted Property to Nonprofits

Summary

The 2018-2019 Ventura County Grand Jury (Grand Jury) received a complaint from a nonprofit organization regarding difficulty purchasing a property on behalf of the nonprofit at a Ventura County sale of tax-defaulted properties. Subsequently, the Grand Jury launched an investigation into the process of selling tax-defaulted properties and, more particularly, into the process as it applies to nonprofit groups.

The sale of tax-defaulted properties in Ventura County (County) is a duty of the Treasurer-Tax Collector's office. One means by which a nonprofit may purchase a property in tax default is through a Chapter 8 sale, also known as an agreement sale.

The Grand Jury acknowledges that sales of tax-defaulted properties happen infrequently because few properties remain in tax-defaulted status. The Grand Jury also acknowledges that because a Chapter 8 sale is initiated by a nonprofit or public agency, the scheduling of such a sale is not always predictable.

While information instructing the County in preparing and conducting Chapter 8 sales is readily available, the Grand Jury concluded that adequate guidance for a nonprofit wishing to purchase property can be difficult to find, from both the State of California (State) and the County. The Grand Jury also concluded that this process lacks transparency, which can contribute to a difficult path in negotiating a Chapter 8 purchase.

The Grand Jury recommends that the Treasurer-Tax Collector's office amend its website to include information regarding the Chapter 8 process. This should include all policies, procedures and relevant deadlines for nonprofits wanting to purchase tax-defaulted properties. This information should be regularly updated and published as property availability changes.

Background

Property on which taxes remain unpaid as of 12:01 AM every July 1 becomes tax-defaulted. Residential property and farmland that is tax-defaulted after five years become subject to the Treasurer-Tax Collector's power to sell that property in order to satisfy the defaulted taxes and accumulated penalties. Nonresidential commercial property can be sold after three years.

The Treasurer-Tax Collector may offer property for sale at a public auction through a process known as a Chapter 7 sale. Public agencies (State, counties, cities, taxing agencies, revenue districts and special districts) or nonprofits may purchase tax-defaulted property through an agreement sale, also known as a Chapter 8 sale. Certain tax-defaulted properties are available through a sealed-bid sale.

The owner of the tax-defaulted property has the right to pay delinquent taxes, and therefore redeem the property, up until 5:00 PM on the last business day prior to

the scheduled tax sale, in which case the amount owed to the County, plus any costs incurred by the County, are paid, and the property will be pulled from a tax sale.

The purpose of offering tax-defaulted property at a tax sale is to collect the unpaid taxes and return the property to a revenue-generating status by conveying the property to another owner. The agreement sale is designed, in part, to allow eligible nonprofit organizations the opportunity to purchase tax-defaulted property for public benefit.

Methodology

The Grand Jury reviewed State documents related to sales of tax-defaulted properties. The Grand Jury performed additional internet research focusing on State statutes regarding the sale of tax-defaulted properties, as well as related information offered by the State Controller and the County Treasurer-Tax Collector. The Grand Jury also conducted interviews with the Treasurer-Tax Collector and staff.

Facts

- FA-01.** Defaulted-tax sales are scheduled to occur once each year; however, due to redemption of properties, they are held infrequently. An auction was held February 13, 2019. Prior to that, the last auction was held in 2015. At the discretion of the Treasurer-Tax Collector, if too few properties remain to warrant the expense of an auction, the sale may be cancelled and those remaining properties will be carried over until the next sale. (Ref-03)
- FA-02.** In the last 10 years, the only properties sold through the Chapter 8 procedure were two vacant parcels of land purchased by the City of Thousand Oaks.
- FA-03.** As of the date of this report, two nonprofits have initiated Chapter 8 purchases of two additional parcels. Completion of these transactions is pending.
- FA-04.** Nonprofits intending to participate in a negotiated-sale Chapter 8 process must be incorporated in the State for at least one of the following purposes:
- Acquiring single-family dwellings for rehabilitation and sale to low-income persons
 - Acquiring vacant land for construction of low-income housing
 - Acquiring vacant land to be dedicated to public use (Ref-01)
- FA-05.** A nonprofit’s proposal to commence purchase of a tax-defaulted property through Chapter 8 must include the following documents:
- An application to purchase a tax-defaulted property (Ref-04, Att-01)
 - A letter declaring an objection to a parcel that is scheduled for sale at an upcoming public auction. An objection letter is only required if the parcel in question is currently scheduled for a Chapter 7 sale. The letter

must provide compelling evidence that the tax-defaulted property is needed or may be needed for public use. (Ref-05, Att-02)

- Articles of Incorporation in the State
- A document listing each parcel under consideration and its intended use (Ref-04)

FA-06. If a nonprofit organization submits a proposal to the Treasurer-Tax Collector to purchase a property currently in tax default, and the property **has not yet been approved** for any other type of tax sale, i.e., has not yet been scheduled for public auction or sealed-bid sale, the Chapter 8 process may move forward. (Ref-01)

FA-07. If a nonprofit submits a proposal to purchase a property that **has been approved** for public auction or sealed-bid sale, the proposal must be filed with the Treasurer-Tax Collector’s office before the date of the first published or posted notice of sale at auction or sealed bid. (Ref-01)

FA-08. The published or posted notice of sale must be at least 21 days prior to the sale. However, the Treasurer-Tax Collector may post notice of a sale at any earlier time. (Ref-01)

FA-09. If the nonprofit’s application for purchase is filed with the Treasurer-Tax Collector’s office after the date of the first published or posted notice of sale, the application is not valid. In that case, the nonprofit may not purchase the property under the Chapter 8 process. The nonprofit may bid on the property at a public auction. (Ref-06)

FA-10. The State provides guidelines to the County regarding the process for selling tax-defaulted properties. (Ref-01, Ref-02, Ref-06)

FA-11. The Treasurer-Tax Collector’s website provides information for people who want to purchase property at the County’s public auction. The County provides no information regarding the Chapter 8 process, including deadlines.(Ref-03)

FA-12. If a nonprofit wants to participate in the Chapter 8 process, it needs to call the Treasurer-Tax Collector’s office for a list of properties in tax-defaulted status and the associated deadlines. (Ref-03)

Conclusions

C-01. The Grand Jury concluded that there is insufficient guidance to nonprofits seeking to purchase a tax-defaulted property through the Chapter 8 process. (FA-01, FA-02, FA-03, FA-04, FA-05, FA-06, FA-07, FA-08, FA-09)

C-02. The Grand Jury concluded that an excessive burden is placed on the nonprofit to determine the procedures and all applicable and necessary Chapter 8 deadlines. (FA-10, FA-11, FA-12)

Recommendation

R-01. The Grand Jury recommends that the Treasurer-Tax Collector’s office update its website, providing easy-to-follow information and instructions regarding the Chapter 8 procedure. This information should include, but not be limited to, complete information outlining all pertinent timelines and the properties available. The list of tax-defaulted properties should be updated in a regularly scheduled manner.(C-01, C-02)

Response

Response Required From:

Ventura County Treasurer-Tax Collector (C-01, C-02) (R-01)

References

Ref-01. State of California “A Guide to Preparing the Chapter 8 Agreement Sale Package”

https://sco.ca.gov/Files-ARD-Tax-Info/Tax-Collector-Ref-Man/Chapter8SaleGuide_2017.pdf

Accessed April 3, 2019

Ref-02. State of California “County Tax Sale Procedural Manual, Volume II: Chapter 8 Tax Sales

https://www.sco.ca.gov/Files-ARD-Tax-Info/Tax-Collector-Ref-Man/ctspm_v2_2016.pdf

Accessed April 3, 2019

Ref-03. Office of the Ventura County Treasurer-Tax Collector

<https://www.ventura.org/ttc/current-auction/>

Accessed April 3, 2019

Ref-04. California State Controller’s Office Form 8-16

<https://www.sco.ca.gov/Files-ARD-Tax-Info/Tax-Collector-Ref-Man/sco8-16.pdf>

Accessed April 3, 2019

Ref-05. Revenue and Taxation Division 1. Property Taxation, Part 6. Tax Sales [3695.5]

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3695.5.&lawCode=RTC

Accessed April 3, 2019

Ref-06. State of California “County Tax Sale Procedural Manual Volume I: Chapter 7 Tax Sales”

https://www.sco.ca.gov/Files-ARD-Tax-Info/Tax-Collector-Ref-Man/ctspm_v1_2016.pdf

Accessed April 3, 2019

Attachments

Att-01. Sample Nonprofit Application Form

Att-02. Sample Nonprofit Objection Letter

Glossary

<u>TERM</u>	<u>DEFINITION</u>
Chapter 7	Sale of tax-defaulted property through the public-auction process
Chapter 8	Sale of tax-defaulted property to a taxing agency or to a nonprofit through an agreement-sale process
County	County of Ventura
Grand Jury	2018-2019 Ventura County Grand Jury
Redemption	The process whereby a tax-defaulted property is pulled from a scheduled sale because the owner has paid delinquent taxes and penalties.
State	State of California
Tax-Defaulted Property	Property on which taxes have been delinquent for five years for residential property and farmland and three years for nonresidential commercial property.
Treasurer-Tax Collector	Ventura County Treasurer-Tax Collector

Attachment 01

Sample Nonprofit Application Form

Attachment 02

Sample Nonprofit Objection Letter

A Guide to Prepare the Chapter 8 Agreement Sale Package

Objection Letter Sample



SAN BERNARDINO MOUNTAINS LAND TRUST
PROTECTING OPEN SPACE, FORESTS, AND WILDLIFE

April 22, 2014

Kelly McKee, Tax Sale Supervisor
Office of Auditor-Controller/ Treasurer-Tax Collector
County of San Bernardino
172 West Third Street, 1st Floor
San Bernardino, CA 92415-0360

RE: 2014 Chapter 8 Tax Sale Request

Dear Ms. McKee,

The SAN BERNARDINO MOUNTAINS LAND TRUST, a charitable 501(c)(3) nonprofit corporation, would like to apply for a Chapter 8 purchase of the tax defaulted parcels listed below that are scheduled for the May 2014 County Tax Sale Auction.

Please accept this letter as our formal request under the Chapter 8 guidelines of the San Bernardino County Tax Code to object to the public auction of the following properties identified below:

<u>Auction Item No.</u>	<u>Assessor Parcel Number</u>
927	0327-104-14 (0327-103-22)
928	0327-104-27 (0327-103-57)
929	0327-104-30 (0327-103-59)
2153	0447-291-02 - 15
2154	0447-291-03 - 15
2155	0447-291-04 - 15
2158	0447-291-05 - 15

Thank you for your assistance.

Sincerely,

Peter Jorns
Peter Jorns
Executive Director
(909) 867-3538

10057 GIFFORDS RD. BOX 488 PLANE ARROWHEAD, CA 91769 (909) 867-3538

Betty T. Yee California State Controller 13