

DEPARTMENT: County Counsel BY: Jeffrey G. Green

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Resolution approving prepayment of real property taxes prior to the approval of a lot line adjustment.

A copy of the request from the Treasurer/Tax Collector justifying her request is attached for your review. Additionally, a copy of Government Code Section 66412(d), which allows a local jurisdiction to require prepayment of real property taxes prior to approval of a lot line adjustment is attached.

An ordinance amending the language contained in the County Code will follow contingent on the Board's approval of this resolution.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Formal Resolution
Source:		Memo from Treasurer/Tax Collector
Internal Transfer		Government Code Section 66412(d)
Unanticipated Revenue _____ 4/5's vote		
Transfer Between Funds _____ 4/5's vote		
Contingency _____ 4/5's vote		
() General () Other		

CLERK'S USE ONLY:

Res. No.: 03435 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

CAO: RH



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BOB PICKARD, CHAIR
GARRY R. PARKER, VICE-CHAIR
LEE STETSON
DOUG BALMAIN
JANET BIBBY

DISTRICT V
DISTRICT IV
DISTRICT I
DISTRICT II
DISTRICT III



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: PRE-PAYMENT OF REAL PROPERTY TAXES PRIOR TO
THE APPROVAL OF A LOT LINE ADJUSTMENT
Resolution No. 03-135

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on May 6, 2003

ACTION AND VOTE:

Request for Direction Relative to the Pre-payment of Property Taxes Prior to Approval of Lot Line Adjustments (County Counsel)

BOARD ACTION: Discussion was held. Jeff Green advised of his memorandum to the Treasurer/Tax Collector in March, 2000, relative to this issue. Keith Williams, Assistant Treasurer/Tax Collector, provided input relative to the request.

Input from the public was provided by the following:

- Claudia VanderBie Cummings stated she does not see the urgency for passing this now. She advised that she has a lot line adjustment application pending and she feels it is a simple procedure. She could see this requirement for subdivisions. She is simply trying to adjust the lines by the road.

Further discussion was held. Keith Williams advised that they do not know what is planned when they receive the requests. Becky Crafts, Supervising Appraiser, provided input and stated they have been trying to resolve this issue for some time. She noted that this is not a new assessment; and she noted an example of where a situation could occur whereby a parcel could be sold with a portion remaining as a result of a lot line adjustment. The remaining portion may be something that doesn't cover the lien.

(M)Bibby, (S)Parker, Res. 03-135 was adopted approving the request to require the pre-payment of property taxes prior to approval of lot line adjustments. Further discussion was held. Claudia Cummings provided further input and stated she feels this results in a pre-payment in these situations. Ayes: Unanimous.

cc: Marjorie Wass, Treasurer/Tax Collector
Robert Lowrimore, Assessor/Recorder
Ken Hawkins, Auditor
File

MARIPOSA COUNTY RESOLUTION NO. 03-135

**RESOLUTION REQUIRING PREPAYMENT OF TAXES
ON LOT LINE ADJUSTMENTS**

WHEREAS, Government Code Section 66412(d) allows a local jurisdiction to require prepayment of real property taxes prior to the approval of a lot line adjustment, and

WHEREAS, requiring prepayment of taxes on real property involved in a lot line adjustment will assure that when the parcel numbers change no unpaid taxes will remain on the original parcel, and

WHEREAS, prepayment of taxes will protect the newly assigned parcels and future property owners, and

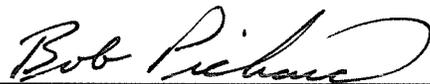
WHEREAS, if taxes are unpaid on the original parcel number in a lot line adjustment and remain unpaid for five years then the original parcel configuration will become subject to the Tax Collector's power to sell, and

WHEREAS, requiring prepayment of taxes on lot line adjustments provides the Tax Collector the ability to collect all taxes that are a lien on an original parcel and will protect future owners of newly configured parcels from having to pay old liens that they were not aware of at the time of purchase,

NOW, THEREFORE, BE IT RESOLVED by the Mariposa County Board of Supervisors, a political subdivision of the State of California, that the Board hereby approves the requirement of prepayment of real property taxes prior to the approval of a lot line adjustment.

PASSED AND ADOPTED THIS 6th day of May, 2003 by the Mariposa County Board of Supervisors by the following vote:

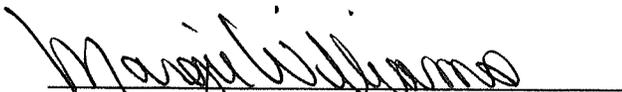
AYES:	STETSON, BALMAIN, BIBBY, PARKER, PICKARD
NOES:	NONE
ABSENT:	NONE
ABSTAINED:	NONE



BOB PICKARD, Chairman
Mariposa County Board of Supervisors

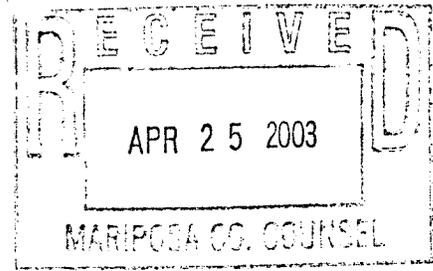
ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**


MARGIE WILLIAMS
Clerk of the Board
JEFFREY G. GREEN
County Counsel



Marjorie J. Wass
Treasurer – Tax Collector and
County Clerk



Treasurer (209) 966-2830 - Tax Collector (209) 966-2621 - County Clerk / Registrar of Voters (209) 966-2007 - Fax (209) 966-6496

To: Jeff Green, Mariposa County Counsel
From: Marjorie Wass, Treasurer, Tax Collector, County Clerk & Public Administrator
Date: 04/25/03
Re: Request for Ordinance for Prepayment of Taxes/Lot Line Adjustment

I am requesting that an ordinance be adopted requiring prepayment of taxes that have become a lien on parcels involved in a lot line adjustment. This will assure that when the parcel numbers change as a result of the lot line adjustment that no unpaid taxes will remain on the original parcel configuration /original parcel number. This is done as a protection for the newly assigned parcels and possible different property owners that will be involved with the new parcels both present and future.

If taxes are unpaid on the *original* parcel number in a lot line adjustment, and remain unpaid for 5 years, the original parcel configuration will become subject to the tax collectors power to sell. The tracking is lost when the parcel numbers are changed from the original configuration to the newly assigned parcels.

When a parcel becomes subject to the tax collector's power to sell, we will do a title search of each parcel to be offered. At this time we would discover that the original parcel is now known as possible multiple parcels with possible multiple owners that may have no awareness of a prior delinquency until we notify them the their parcel is a portion of property that will be offered for sale at auction unless redeemed.

Lot line adjustments are done routinely. Without the ability to collect *all* taxes that are a lien on an original parcel, we are not only opening up the potential to increase our delinquent roll, but will create a hardship on future owners of newly configured and numbered parcels.

pursuant to Section 872.040 of the Code of Civil Procedure, the local agency approving the parcel map or final map may establish the amount of any monetary exaction or any dedication or improvement requirement authorized by law as a condition of approving the parcel map or final map, but shall not require payment of the exaction, the undertaking of the improvement, or posting of security for future performance thereof and shall not accept any required offer of dedication until the time specified in subdivision (b).

(b) This section applies to judicial partition of real property which is subject to a contract under Article 3 (commencing with Section 51240) of Chapter 7 of Part 1 of Division 1 of Title 5 and which will remain subject to that contract subsequent to the filing of the parcel map or final map. With respect to any parcel created by a parcel map or final map subject to this section, payment of exactions and acceptance of offers of dedication under this section shall be deferred by the local agency until the contract terminates or is canceled as to that parcel, except that no deferral is required under this subdivision as to fees and assessments that are due and payable for governmental services provided to the parcel prior to termination or cancellation of the contract. The applicants for a parcel map or final map subject to this section shall be personally liable for performance of obligations deferred under this section at the time they become due.

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

* (d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

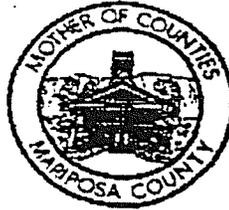
(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after

OFFICE OF THE
COUNTY COUNSEL36 Claudia Cummings
Dir. P.**RECEIVED**

MAR 29 2000

Mariposa County Planning Dept.

M E M O R A N D U M

DATE: March 28, 2000

TO: Don Z. Phillips, Tax Collector/Treasurer

FROM: Jeffrey G. Green, County Counsel *JGG*

RE: Prepayment of Taxes/Lot Line Adjustments

Pursuant to our discussions regarding the above matter, it is my understanding from a discussion with the Planning Department that it has been the policy of your office to require prepayment of all property taxes prior to deed recordation and final approval by the County of lot line adjustments. It is further my understanding that your policy on this matter originated from California Government Code Section 66412(d) which states in pertinent part as follows:

"An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements."

Unfortunately, the above quoted language is not a self enforcing code section but rather simply gives the Board of Supervisors, as the local agency, the authority to adopt a policy by resolution or ordinance imposing as a condition of a finalization of a lot line adjustment the prepayment of property taxes. In order for the County to require individuals involved in lot line adjustments to prepay property taxes prior to the finalization of the lot line adjustment it will be necessary for the Board to adopt a policy in conformance with Government Code Section 66412. I believe that it would be preferable to have the Board adopt an ordinance as opposed to a resolution. I certainly can understand how you would have interpreted Government Code Section 66412 to give your office the authority require prepayment of taxes.

rs

cc: Sarah Williams, Interim Planning Director