

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

1-2-90
12/20/1989
ITEM #: 9

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Tax Collector

By: *Mary J Ulyly*

966-2621

Recommended Action and Justification:

Resolution authorizing the County Tax Collector to enter into an agreement with First American Title Company of Mariposa, to perform a preliminary title report, needed for proper notification of lien holders prior to public auction. As provided for in Sec. 8135.31 Tax Collector's Manual (see attached copy).

Background & History of Board Actions: This is the first time we have requested an outside firm to perform this function. Past researches have been done by staff. With the number of parcels, and complexity of doing a complete search, it is recommended that this be done by someone with that expertise.

Alternatives & Consequences of Negative Action: Should staff personnel be required to do this, it may be incomplete, and leave the county liable to law suits.

Costs:
Anticipated: \$4,100.00
Source: Tax Collector's Cost
Fund: Balance of \$12,976.95

Special Instructions:
Costs recovered by sale of parcels at public auction.

Clerk's Use Only: *Res. No 90-14*
Vote - Ayes: 4 Noes: _____
Absent: None Abstained: _____
() Denied _____ Recommended () Minute Order Attached
_____ Not Recommended

Administrative Officer's
Recommendation:
On Agenda as: *MMU* Approved
() Minute Order Attached

The foregoing instrument is a correction copy of the original on file in this office:
Date: _____

_____ Policy Determination
_____ Submit with Comment
_____ Return

ATTEST: MARGIE WILLIAMS
Clerk of the Board of
Supervisors
County of Mariposa, State of
California

Comments: _____

BY: _____
Deputy

C.A.O. _____

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8135.22 RETURN OF MAILED NOTICE OF SALE TO PARTIES OF INTEREST

A requested return date should not be shown on the envelope of a mailed notice to a party of interest (i.e., "Please return to sender within 10 days if not claimed").

The sale may be voided if a requested return date is shown on the envelope or if the envelope is date-stamped upon being returned to your office before the sale (see annotations to §3365).

All mailed notices returned by the postal service as undeliverable should be retained unopened as proof of mailing if needed for court evidence. If envelopes are opened, it may be difficult to prove what notice was given since the contents no longer remain sealed and intact.

NOTE: When a notice is returned and the assessee is shown as deceased, the superior court clerk's office should be checked for a probate. If the estate is in probate, the notice should be mailed to the administrator or executor of the estate. If a probate cannot be found, the property should be withdrawn from the sale. See M-8136.6 instructions for handling escheated and unprobated property.

8135.3 OBTAINING NAMES AND ADDRESSES OF PARTIES OF INTEREST

While some tax collectors use local title companies to research names and addresses of parties of interest, the law requires only a "reasonable effort" to obtain the information. The validity of a sale is not compromised if any names cannot be obtained from a reasonable effort. (§3701).

NOTE: Any title company reports you obtain in researching data on parties of interest should not be photocopied or distributed to the public. The report contains data extracted from public records, but the report is furnished as a product of effort between the company and you, the purchaser. Any person seeking the information in the report can either purchase it from a title company or perform the source research himself.

8135.31 PARTIES OF INTEREST SEARCH

There are a number of ways to obtain the names and addresses of the parties of interest, ranging from purchasing a title report from a local title company to having a member of the tax collector's staff search the public records.

There are some advantages and disadvantages in contracting this job out to a title company or abstractor. The basic advantage is the obvious saving in personnel time and labor to research the names and addresses of the parties of interest. The disadvantages include the high cost of a title report (ranging from \$100 to \$350), the time required to get a report, and the actual type of report which is required. At this point, caution should be exercised when ordering a report from a title company. The type of report that is ordered is very important. "Lot Book", "Judgment Lien Guarantee", or "Property Search Guarantee" reports will only provide a portion of the needed information. The only report which will provide complete information is a "Preliminary Title" report. Remember, the law does not require the use of the services of a title company or abstractor. A member of the tax collector's staff may search the public records to determine the names and addresses of the parties of interest.

8135.1 PUBLISHED NOTICE — Continued

- (2) a newspaper of general circulation published in the judicial district where the property is situated.

The publication requirements for a public auction are found in M-9500. For information on posting notice of impending sale, see M-9523.

NOTE: If the same newspaper of general circulation is published in both the county seat and in such district, or if the publication of the notice of sale is made in a newspaper which is determined pursuant to §3381 as most likely to afford adequate notice of the sale, that publication shall satisfy the requirements for publication. If there is no newspaper published in the county seat or in the judicial district, then publication may be made by posting notice in three public places in the county seat or in the judicial district, as the case may be, where no such newspaper is published. The publication shall be started not less than 21 days prior to the sale.

If, in the judgment of the board of supervisors, any property to be sold will bring at auction less than the cost of publication in a newspaper, the publication of the notice of intended sale may be made in the same manner as if there were no newspaper published in the county seat or in the judicial district (§3703).

8135.2 NOTICE OF SALE MAILED TO PARTIES OF INTEREST

Not less than 45 days nor more than 60 days before the proposed sale, the tax collector shall send notice (by registered or certified mail) to parties of interest as defined in §4675. A party of interest is defined as a person vested with title or a lienholder of record at the time the notice is given.

NOTE: "Parties of interest" may include assignees or successors in interest of former owners, purchasers of contracts of sale, and a wide variety of lienholders. Liens of record filed by an individual or by a governmental agency (federal, state, county, or any political subdivision of a county) establish such lienholders as "parties of interest."

The contents of the notice must include the date, time and place of the sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of sale, and information regarding the rights of parties of interest to claim excess proceeds, pursuant to §4674, if the property is sold and excess proceeds result from its sale (§3701).

Form TDL 8-05 is recommended.

8135.21 MAILED NOTICE OF SALE TO I.R.S.

Upon discovery of an Internal Revenue Service (I.R.S.) lien a notice of sale must be given, in writing, to the I.R.S. The notice must be sent by registered or certified mail or by personal service and be received by the I.R.S. not less than 25 days before the sale [§7425(c), Internal Revenue Code]. See Atty. Gen. Op. 79-721, 12-21-79. A sale may be voided if the I.R.S. notice is not mailed to the district office of the I.R.S. having jurisdiction over the properties subject to the I.R.S. tax lien.