



MEMORANDUM

from the office of the
PLACER COUNTY COUNSEL
Extension 4044

TO : Board of Supervisors

FROM : Karin Schwab, County Counsel

DATE : July 26, 2022

RE : Petition to Rescind Tax Sale of 9005 N. Lake Blvd., Kings Beach, CA 96143
(APN #090-232-016-000)

ACTION REQUESTED:

1. Adopt a Resolution appointing and authorizing William Wright, Esq. of the Law Offices of William Wright to act as the county officer on behalf of the Board of Supervisors to conduct a hearing pursuant to California Revenue and Taxation Code § 3731(b) on the Petition of Veritel Homes, LLC and Ken Joiret to Rescind the Tax Sale of 9005 N. Lake Blvd., Kings Beach, CA 96143 (APN 090-232-016-000) and issue a decision subject to Board approval; require the County Auditor to record each act performed under the authorization of the Resolution; and adopting Administrative Rules and Procedures to use to conduct the hearing.
2. Authorize the County Purchasing Manager to execute a contract with William Wright, Esq. of the Law Offices of William Wright to provide the services described the Resolution in an amount not to exceed \$15,000 subject to Risk Management and County Counsel concurrence and to execute subsequent amendments consistent with the subject matter and scope of work up to an additional \$5,000 with Risk Management and County Counsel concurrence.

BACKGROUND:

Pursuant to Resolution No. 2021-249 adopted by the Board on July 6, 2021, the Tax Collector sold the real property located at 9005 N. Lake Blvd. Kings Beach, CA (APN 090-232-016-000) (the "Property") at a Public Sale for the purpose of satisfying unpaid taxes, penalties, and costs on October 5, 2021. On or about November 24, 2021, Veritel Homes, LLC and Ken Joiret submitted a Petition to Rescind the sale of the Property. The Petition is being made pursuant to California Taxation and Revenue Code § 3731 ("Petition").

Pursuant to Cal. Rev. and Tax. Code § 3731, the Board has the authority to rescind the tax sale after certain conditions are met including a hearing on the petition with notice provided to the purchaser of the Property. Under Section 3731.1, the Board may, by resolution, authorize a county officer to perform on its behalf the hearing and issue a decision subject to Board approval.

The proposed Resolution is being made pursuant to the Board's authority under the California Constitution, the laws of the State of California including Rev. and Tax. Code § 3731.1, and the County Charter. The proposed Resolution appoints and authorizes William Wright to act as the county officer to conduct a hearing and render a written decision on the Petition and identifies the County Auditor to record each act performed by the county officer under the authorization of the proposed Resolution. The proposed Resolution also adopts rules and

procedures for the hearing. Under the Cal. Rev. and Tax Code and the proposed Resolution, the Board will retain the final decision-making authority to ratify or reject the county officer's decision.

County Counsel also requests authority for the County Purchasing Manager to execute a contract with William Wright, Esq. of the Law Offices of William Wright to provide the hearing services described herein, in an amount not to exceed \$15,000, with Risk Management and County Counsel concurrence and to execute subsequent amendments consistent with the subject matter and scope of work up to an additional \$5,000 with Risk Management and County Counsel concurrence.

FISCAL IMPACT:

This action requires a contract with the Law Offices of William Wright for an amount not to exceed \$15,000 to perform the services described in this report and the attached proposed Resolution with the potential for subsequent amendments consistent with the subject matter and scope of work described in this report. The amount of the contract will be covered by the Treasurer-Tax Collector's budget. There are sufficient funds within the Treasurer-Tax Collector's budget for the contract.

ATTACHMENTS:

Attachment A – Resolution

Before the Board of Supervisors County of Placer, State of California

In the matter of: Appointment and Authorization of William Wright, Esq. of the Law Offices of William Wright to act as County Officer on behalf of the Board of Supervisors to Conduct Hearing Pursuant to CA Revenue and Taxation Code §3731(b) on Petition of Veritel Homes, LLC and Ken Joiret to Rescind the Tax Sale of 9005 N. Lake Blvd., Kings Beach, CA 96143 (APN 090-232-016-000) and Issue Decision After Hearing Subject to Board Approval; Require County Auditor to Record Each Act Performed under the Authorization Hereof; and Adopt Administrative Rules and Procedures to Use to Conduct the Hearing.

Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held July 26, 2022, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the County has received a petition to rescind (the "Petition") the October 5, 2021 tax-defaulted land sale (the "Sale") of the real property commonly known as 9005 N. Lake Blvd. Kings Beach, CA 96143, Assessor's Parcel Number 090-232-016-000 (the "Property").

WHEREAS, the Petition by Veritel Homes, LLC and Ken Joiret is presented pursuant to California Revenue & Taxation Code § 3731.

WHEREAS, the Placer County Board of Supervisors, pursuant to California Revenue & Taxation Code § 3731, may rescind the Sale of the Property, under certain conditions, after a hearing on the merits of the Petition.

WHEREAS, the California Constitution, the County Charter, and the laws of the State of California including Revenue and Taxation Code § 3731.1 provide that the Board of Supervisors

may, by resolution, appoint and authorize a county officer to perform on its behalf any act required or authorized to be performed by the Board of Supervisors under California Revenue and Taxation Code § 3731.

WHEREAS, said county officer may be a qualified outside third party appointed and authorized pursuant to statute.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Placer, State of California, that this Board appoints and authorizes William Wright, Esq. of the Law Offices of William Wright to act as the County Officer on behalf of this Board for acts required or authorized under California Revenue and Taxation Code § 3731(b) including to conduct a hearing on the Petition and to issue a Decision subject to Board approval.

BE IT FURTHER RESOLVED, that the hearing on the Petition shall be conducted pursuant to the Administrative Rules and Procedures attached hereto as Exhibit 'A'.

BE IT FURTHER RESOLVED, that the County Auditor record each act performed under the authorization of this Resolution.

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately upon adoption.

Exhibit 1 - Administrative Rules and Procedures for Hearing to Consider
Petition of Veritel Homes, LLC and Ken Joiret to Rescind Tax Sale
Pursuant to Cal. Rev. and Tax. Code § 3731

**ADMINISTRATIVE RULES AND PROCEDURES FOR HEARING TO CONSIDER
PETITION OF VERITEL HOMES, LLC AND KEN JOIRET TO RESCIND TAX SALE
PURSUANT TO CAL. REV. AND TAX. CODE § 3731**

1. DEFINITIONS

The definitions set forth in this section shall govern the construction of the terms as used in these Administrative Rules and Procedures (the “Rules”).

- A. “Auditor” is the County Auditor responsible for recording each act performed under the Resolution pursuant to Cal. Rev. and Tax. Code §3731.1.
- B. “Board” is the Placer County Board of Supervisors.
- C. “Clerk” is the Clerk of the County Officer. The Clerk is responsible for maintaining the records of the Board and hearings.
- D. “County” is the County of Placer.
- E. “County Officer” is William Wright as appointed and authorized by resolution of the Placer County Board of Supervisors pursuant to Cal. Rev. and Tax. Code § 3731.1.
- F. “Parties” refers to the Petitioners, Purchaser, and Tax Collector collectively.
- G. “Petition” is the Petition to Rescind Tax Sale submitted by Petitioners.
- H. “Petitioners” are Veritel Homes, LLC and Ken Joiret.
- I. The “Property” is the real property commonly known as 9005 N. Lake Blvd. Kings Beach, CA 96143, Assessor’s Parcel Number 090-232-016-000.
- J. “Purchaser” is the person(s) or entity(ies) who purchased the Property at the Tax Sale or their successors-in-interest.
- K. “Resolution” is the Resolution these Administrative Rules and Procedures are incorporated hereto.
- L. “Tax Collector” is the Placer County Tax Collector.
- M. “Tax Sale” is the tax-defaulted sale of the property which occurred on October 5, 2021.

2. NOTICE OF HEARING

- A. The Clerk shall set a hearing on the merits of the Petition and notify the Petitioners and Purchaser in writing by certified mail with return receipt requested. The notice shall be sent to the last known mailing address of the Petitioners and the Purchaser. The Clerk is authorized to send additional notices or communications regarding the hearing to Petitioners and the Purchaser via e-mail if requested by the Petitioners and/or Purchaser, respectively. The notice shall be given no less than forty-five days prior to the hearing.

The notice shall include:

- a. The date, time, and place of the hearing
 - b. A description of the property that was sold
 - c. A copy of the Petition
 - d. A copy of these Rules
 - e. The e-mail address of the Clerk
- B. The Clerk shall notify the Tax Collector of the time and place of the hearing.
- C. No less than thirty (30) days prior to the date of the hearing, the Parties must submit to the Clerk via email a good faith estimate of the amount of time required to present their case.

3. PROCEEDING RECORDED

All hearings and proceedings conducted under these Rules will be recorded. The Clerk shall keep a record of each exhibit admitted into evidence by the County Officer as well as preserve the admitted exhibit(s).

4. EVIDENCE; ORDER OF PRESENTATION

The hearing on the Petition shall proceed as follows:

- A. The hearing shall be open and public except that, upon conclusion of the taking of evidence, the County Officer may take the matter under submission in private in reaching a decision. Either Petitioners or Property Owner may request the County Officer to close to the public a portion of the hearing by filing a declaration under penalty of perjury that evidence is to be presented which relates to trade secrets the disclosure of which will be detrimental to the business interests of the owner of the trade secrets. If the County Officer grants the request, only evidence relating to the trade secrets may be presented during the time the hearing is closed.
- B. The Clerk shall announce the name of the Petitioners. The County Officer shall then determine if the Petitioners are present. If Petitioners are not present the County Officer shall ascertain whether the notice required by Rule 2 was given to the Petitioners. If the notice has been given and the Petitioners are not present, the Petition shall be denied.

If notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice thereof.

- C. The Clerk shall announce the name of the Purchaser. The County Officer shall then determine if the Purchaser is present. If the Purchaser is not present the County Officer shall ascertain whether the notice required by Rule 2 was given to the Purchaser. If the notice has been given and the Purchaser is not present, the hearing shall continue.

If notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice thereof.

- D. The Clerk shall then announce the nature of the Petition.
- E. All testimony shall be taken under oath or affirmation. The Clerk shall swear in all witnesses when presented for testimony. All sworn witnesses remain under their oath for the duration of the hearing.
- F. The County Officer shall require the Petitioners to present their case first. After the Petitioners have rested, the County Officer will allow the Purchaser to present its case. If the Purchaser chooses not to present a case, their right to do so is deemed to be waived at the start of the Tax Collector's case. After the Purchaser has presented its case or waived its rights to do so, the County Officer will require that the Tax Collector present its case.
- G. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The County Officer may act only upon the basis of evidence properly admitted into the record at the hearing. A full and fair hearing shall be accorded to the Parties. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses and for argument.

Any party seeking to submit exhibits as evidence, must provide the original exhibit to be preserved by the Clerk and courtesy copies of the exhibit to each party and the County Officer.

5. LEGAL COUNSEL

Any Party may be represented by legal counsel at any point in the proceedings.

6. PROPERTY IN COMMON OWNERSHIP

If the Property was or is held in joint or common ownership or in co-ownership, the presence of any one of the owners shall constitute a sufficient appearance for that party.

7. APPEARANCE BY CORPORATION OF LIMITED LIABILITY COMPANY

If any Party is a corporation or limited liability company, that Party shall make an appearance by the presence of an attorney or of any duly authorized officer. Any duly authorized officer appearing shall provide notarized authorization to represent the corporation or limited liability company by agent or officer of record on file with the California Secretary of State for the corporation or limited liability company.

8. BURDEN OF PROOF

The County Officer must presume that the Tax Collector properly performed her duties and that the Tax Sale was properly conducted under the laws of the State of California. The effect of presumption is to impose upon the Petitioners the burden of proving that the Tax Sale was not conducted in accordance with the laws of the State of California and that the Tax Sale should be rescinded.

9. POST-HEARING BRIEFS

- A. Each Party is allowed to submit a brief no later than ten (10) days after the conclusion of the hearing. The briefs are limited to ten (10) pages per party. The briefs may contain legal and factual arguments which include references to testimony and exhibits admitted into evidence. While the briefs may be considered by the County Officer, they do not constitute evidence. To the extent that a brief includes references to testimony or exhibits not in evidence, the County Officer shall disregard any such reference and not consider any such reference in making his Decision.
- B. The briefs must be submitted via email to the Clerk at the address provided in the notice of hearing. The Clerk must transmit copies of each brief to the County Officer and all Parties.

10. DECISION

- A. Acting upon the evidence properly before him and in accordance with the burden of proof, the County Officer shall render a written Decision as to whether or not the Tax Sale complied with the laws of the State of California and whether or not the Tax Sale should be rescinded. The Decision should fairly disclose the County Officer's finding on all material factual and legal points raised in the Petition and hearing.
- B. The County Officer's Decision, itself, is not binding on the Parties. The Tax Collector must present the Petition and the County Officer's Decision to the Board for ratification or rejection.

- a. The presentation of the Petition and Decision must occur at a Board of Supervisors' meeting on a date which allows the Tax Collector to provide the Parties with at least forty-five (45) days' notice. The notice must include:
 - i. The date, time, and place of the hearing,
 - ii. A description of the property that was sold,
 - iii. The copy of the Decision, and
 - iv. If the Decision recommends rescission of the Property, a statement that a refund will be issued to the Purchaser for the purchase amount of the Property, plus interest at the county pool apportioned rate as specified in Cal. Rev. and Tax. Code § 5151 from the date of the purchase of the Property.

- b. After the Tax Collector's presentation of the Petition and Decision to the Board, the Petitioners and the Purchasers shall each be allowed to present argument to the Board as to whether the Board should ratify or reject the Decision of the County Officer. The presentations of Petitioners and Purchaser are limited to a maximum of fifteen (15) minutes.