

327-150-37-100 Public Hearing: Auditor-Controller Notes

BACKGROUND

When property taxes remain unpaid for 5 years, the Tax Collector may sell the property. If the bid amount exceeds the amount to bring the taxes current, an Excess Proceeds situation exists. A recorded Lienholder of Record and/or the Owner of Record can claim the Excess Proceeds within a specified period of time.

Pursuant to State statute, the Board of Supervisors determines each Claimant's rightful amount. The Board may obtain any information/proof necessary to establish a Claimant's rights to all/some of the Excess Proceeds. The Board's decision may be contested in court within 90 days. The Board may delegate any task in the process. In El Dorado County, the Board has delegated the receipt and initial processing of Claims to the Auditor, but the Board has retained the right to determine the distribution of the Excess Proceeds. Pursuant to Resolution 031-2012, the Board determines the distribution at a Public Hearing.

GOVERNING STATUTES

R&T Code §4675 governs the claims and distribution. Pertinent parts of §4675 are (emphasis added):

(a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

(d) Claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e)(1) Except as provided in paragraph (2), no sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(A) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(B) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

(g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

THREE CLAIMS SUBMITTED FOR 327-150-37-100

Claims (attached) have been submitted by the following parties. \$179,941.16 is the available amount of Excess Proceeds.

- Lienholder of Record – Wells Fargo Equipment Finance, Inc. claiming \$57,091.13
- Lienholder of Record – U.S. Department of Justice (DOJ) claiming \$146,993.29
- Owner of Record – Hosanna Porath (Ex-wife of Vogelsang) claiming \$179,941.16

Recording Date	Other Date	Happening	Comments
	Sept 1988	Vogelsang and Porath marry	Per Dept of Justice (DOJ)
4/22/94	4/12/94	Vogelsang and Porath acquire subject property.	Take title as "Wife and Husband, as Joint Tenants".
12/23/98	12/18/98	Interspousal Transfer Grant Deed from Porath to Vogelsang.	
Not recorded until 3.5 years later (see below)	4/29/02	Interspousal Transfer Grant Deed from Porath to Vogelsang signed and notarized (not recorded until 2005).	DOJ indicates Vogelsang was under criminal investigation at this time and likely for the purpose of evading his restitution obligations.
5/17/04	4/23/04	Wells Fargo Abstract of Judgment.	
	9/6/05	DOJ judgment "Date of Imposition" signed by Judge.	
9/13/05		April 2002's Interspousal Transfer Grant Deed recorded.	DOJ indicates Vogelsang took a "wait and see" approach to recording and was trying to avoid restitution. DOJ says transparent attempt to avoid debt isn't valid.
	9/23/05	DOJ judgment "Filed" in US District Eastern CA Dist of CA.	
	12/16/05	DOJ judgment's lien signed.	
12/27/05		DOJ judgment's lien.	
	12/27/10	Last time taxes paid prior to tax sale.	09/10 2nd installment default paid.
2/3/14		Wells Fargo Abstract of Judgment renewal.	
	10/1/15	Vogelsang and Porath divorce per Mountain Democrat.	DOJ indicates there is no divorce. Vogelsang's divorce attorney indicated in May 2017 that the separation date is an important date in law and is under dispute by Vogelsang.
12/2/16	11/4/16	Tax Sale.	
	4/27/17	Vogelsang's divorce attorney's office wanted to know deadlines to file a Claim by Vogelsang.	
	May 2017	Explained to Vogelsang's divorce attorney's office that under §4675 Vogelsang couldn't file a claim as not on Title of Record as of tax sale.	
	May 2017	Vogelsang's divorce attorney's office called to determine deadlines to a file judgment to compel County to give Vogelsang the Excess Proceeds for which they believe that Porath would try to submit Claim and keep money for herself.	