



Legislation Text

File #: 22-0452, **Version:** 1

County Counsel's Office recommending the Board deny the claim for refund of property taxes by Denise Cook in the amount of \$17,207.55 and authorize the County Counsel's Office to send a Letter of Denial to Ms. Cook.

FUNDING: General Fund.

DISCUSSION / BACKGROUND

In this matter, the County Counsel's Office worked closely with the Assessor, Treasurer-Tax Collector, and Auditor's Office to conduct a thorough investigation regarding this claim. It has been determined that Ms. Cook's claim lacks both factual and legal merit. In addition, the burden of proof in this matter rests with Ms. Cook and she has failed to meet that burden.

In early 2005 Ms. Cook purchased a 1.85% property interest in the El Dorado Hills Self Storage property ("Property"). Ms. Cook paid \$160,000 for her share of the Property. After the purchase she received two deeds that reflected her partial ownership. There were approximately 20 other individual owners of the Property, in addition to one Limited Liability Corporation ("LLC"). Multiple tax bills were not paid during Ms. Cook's period of ownership. The property was foreclosed in 2009, and the tax bills gave rise to tax liens on the LLC, Ms. Cook and the other owners. The LLC then declared bankruptcy, so the individual owners bore the tax lien burdens.

When Ms. Cook pursued another financial investment, in 2018, she was reportedly unable to borrow money due to the tax liens on the Property. She claims that she did not understand that her 2005 investment in the Property was as an individual property owner and claims that she thought she was joining the LLC to protect herself from personal liability. Ms. Cook also asserts that she had no knowledge of these tax liens. However, she has acknowledged receiving copies of the 2005 deeds that clearly reflected her individual property ownership.

In 2019 Ms. Cook paid the outstanding tax bills on the Property, in order to proceed with her new investment. The tax liens were then released. She is now asking the Board of Supervisors to refund the money she paid to clear the tax liens.

Ms. Cook argues that she was not the "true owner" of the property, that the Treasurer-Tax Collector's Office failed to provide her with notice, and that she was improperly billed. However, the deeds that Ms. Cook acknowledges receiving were filed in 2005 and clearly indicate she held an individual interest in the Property. This made her a "true owner." The legal arguments made by Ms. Cook's attorney (as referenced in her claim letter) are not applicable to Ms. Cook's clear property ownership. All of the examples noted involved ambiguous ownership relationships between parties without legal documents to reflect their shared intentions. Yet in Ms. Cook's matter, there *is* legal documentation of the shared intent of the parties, as reflected in the deeds Ms. Cook received. In addition, despite an in-depth review of the records by the Auditor's Office, there is no evidence that the County issued any improper bills in this matter. Ms. Cook has also failed to establish that the County failed to provide her proper notice in this matter. As stated above, it is Ms. Cook's legal burden to produce such evidence, and she has not met that burden. Therefore she is not entitled to a refund of taxes in

this matter.

Should the Board deny Ms. Cook's claim, Ms. Cook may choose to seek relief in the Superior Court. However, since Ms. Cook did not exhaust her administrative remedies first (i.e., she never submitted an application to the Assessment Appeals Board in this matter) it would be particularly difficult for her to prevail in Superior Court.

ALTERNATIVES

The Board of Supervisors could choose to grant Ms. Cook's claim and order that the taxes she paid in 2019 be refunded.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Information in regard to this claim has been gathered from the Assessor, Treasurer Tax Collector and Auditor's Offices.

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

Ms. Cook is seeking a refund of \$17,207.55. If the claim is granted, the payment would be paid from the General Fund.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

This recommendation follows the Strategic Plan for Good Governance through a multi-departmental evaluation of the matter in order to facilitate an informed decision by the Board.

CONTACT

Sharon Carey-Stronck, Deputy County Counsel