

DEPARTMENT: Board

BY: Supervisor Reilly

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_X_)

Request for waiver of prepayment of property taxes for lot line adjustment for APN 06-040-025 and 031.

A letter from Barry Brouillette, Vice President of Yosemite Motels, along with a memorandum from County Counsel concerning this request, is attached.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this request.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Discuss and provide direction.

COSTS: (x) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

CLERK'S USE ONLY:

Res. No.: 97-104 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

() Approved () Denied

(x) Minute Order Attached () No Action Necessary

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

COUNTY ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

C.A.O. Initials: *JR*

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: SUPERVISOR REILLY
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: WAIVER OF PREPAYMENT OF PROPERTY TAXES FOR LOT LINE
ADJUSTMENT; RES. 97-104

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on April 1, 1997

ACTION AND VOTE:

10:28 a.m. Request for Waiver of Prepayment of Property Taxes for Lot Line
Adjustment for APN 06-040-025 and 06-040-031 (Supervisor Reilly)

BOARD ACTION: Following discussion, (M)Parker, (S)Pickard, Res. 97-104 adopted
approving request based on the circumstances resulting from the flood disaster/Ayes:
Unanimous.

cc: Don Z. Phillips, Tax Collector
Barry Brouillette
Jeff Green, County Counsel
Gary Estep, Assessor
Ken Hawkins, Auditor
File



March 19, 1997

Patti Reilly
Board of Supervisors
Mariposa County
P.O. Box 784
Mariposa, CA 95338

Best Western
Yosemite Way Station

Dear Patti:

Cedar Lodge

We have a circumstance in El Portal I would like you and the Board to consider. Before a certificate can be filed on a lot line adjustment the tax collector requires that the property tax on both parcels be paid a year in advance.

E.C. Yosemite Motel

Miners Inn

The Assessor has told us because of our flood circumstances we can defer our April tax payment until fall. We own both parcels affected by lot line #512 and would be willing to sign and record a document promising to prepay the property tax should either parcel be sold before the taxes are payable.

Comfort Inn
Oakhurst

Comfort Inn
Mariposa

In the continuing circumstances of the flood and its aftermath we request that the Board authorize a waiver to the prepayment of taxes on our two El Portal lots #06-040-025 and 031.

Yosemite View Lodge

Sincerely,

Barry Brouillette
Vice President

BB/jd


OFFICE OF



JEFFREY G. GREEN
County Counsel
(209) 966-3222

P. O. Box 189
Mariposa, CA 95338
FAX (209) 966-5147

The County Counsel
MARIPOSA COUNTY
March 17, 1997

To: Patti Reilly, District 1 Supervisor
From: Jeffrey G. Green, County Counsel 
Re: Lot Line Adjustment Payment of Taxes

You have requested that I review the California Government Code relevant to prepayment of real property taxes when property changes hands pursuant to a lot line adjustment. I am enclosing herewith a copy of Government Code Section 66412(d). As I read Subsection (d), it appears to me that the local governing body, in this case the Board of Supervisors, has discretion as to whether or not real property taxes are to be paid in advance when a lot line adjustment occurs. It is therefore my opinion that the Board of Supervisors, but not the Tax Collector without authorization from the Board, would have the authority pursuant to Government Code Section 66412(d) to waive the prepayment of property taxes for a lot line adjustment should the Board desire to do so.

Should you have any questions regarding this matter please feel free to contact me.

JG:nl

Enclosure

§ 66411.1

Historical and Statutory Notes

1994 Legislation

The 1994 amendment, at the beginning of subds. (a) and (b), added "Notwithstanding Section 66428".

Section 3 of Stats.1994, c. 655 (A.B.3353), provides:

"This act is not intended to either enlarge or diminish the regulatory authority of a local agency, nor is this act intended to support or overrule the holding of the California Supreme Court in *Morehart v. County of Santa Barbara*, 7 Cal. 4th 725 (1994)."

Notes of Decisions

Conditions for approval 3

For Ventura County (Ventura County) (App. 2 Dist. 1984) 207 Cal.Rptr. 840, 161 Cal.App.3d 749.

1. In general

Lots 1, 2 and 3 did not constitute separate and distinct parcels of land legally subdivided within meaning of the state map act (§§ 66410 to 66499.37) by prior United States Survey Map, and were not therefore exempt from regulation under the map act and local ordinances, and because the lots were not legal subdivisions prior to the map act, no merger issue was raised by common ownership of entire parcel. *John Taft Corp. v. Advisory Agency*

3. Conditions for approval

When a local agency requires the filing of a tentative map in addition to a parcel map with respect to the subdivision of property, the agency may not impose, as a condition of tentative map approval, the installation of irrigation facilities prior to approval of the parcel map or that an agreement be reached between the subdivider and an irrigation district regarding the timing of the installation of irrigation facilities. 78 Op.Atty.Gen. 158, May 18, 1995.

§ 66411.5. Partition of real property subject to a contract under § 51240 et seq.; parcel map or final map; approval; filing; deferral of payment of exactions and acceptance of offers of dedication; requirements

(a) Notwithstanding any other provision of this division, whenever a parcel map or final map is required to effectuate a judicial partition of property pursuant to subdivision (b) and 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.

(Added by Stats.1988, c. 494, § 1.)

§ 66412. Application of division; exclusions

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 two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided 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 local 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 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. 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

Additions or changes indicated by underline; deletions by asterisks * * *

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 11004 of the Business and Professions 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 January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 11003.2 of the Business and Professions 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 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

(Amended by Stats.1983, c. 101, § 87; Stats.1983, c. 1258, § 3, eff. Sept. 30, 1983; Stats.1984, c. 306, § 1; Stats.1985, c. 1504, § 1; Stats.1989, c. 847, § 4; Stats.1990, c. 1001 (A.B.3107), § 1; Stats.1992, c. 523 (S.B.1683), § 5.5; Stats.1992, c. 1003 (A.B.3100), § 2; Stats.1994, c. 458 (A.B.1414), § 2.)

Historical and Statutory Notes

1983 Legislation

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code § 9605.

1992 Legislation

The 1992 amendment by c. 1003 permitted an advisory agency or local agency to require the prepayment of real property taxes prior to the approval of the lot line adjust-

ment in the third sentence of subd. (d); also, in that sentence, preceding "to facilitate the relocation of existing utilities" deleted "except"; and added subd. (j).

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

1994 Legislation

The 1994 amendment added subd. (k) relating to leases of agricultural land for agricultural purposes.

Additions or changes indicated by underline; deletions by asterisks * * *