

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

198



FROM: County Counsel

SUBMITTAL DATE:
August 4, 2010

SUBJECT: Recommendation for Distribution of Excess Proceeds for Tax Sale
No. 171, Items 53-61, Items 82-139, Items 174-191 and Items 210-243

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the proposed Settlement Agreement and Release of all Claims dividing the excess proceeds between the City of Perris Business Park LLC (\$54,409.68) and the City of Perris (\$28,000);
2. Direct that the excess proceeds be distributed by the County in accordance with the settlement agreement; and
3. Authorize the Chairman of the Board to sign the proposed settlement agreement on behalf of the County.

(continued next page)

PAMELA J. WALLS, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget: Budget Adjustment: For Fiscal Year:
	Current F.Y. Net County Cost:	\$	
	Annual Net County Cost:	\$	

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY:
Jerry Norris

County Executive Office Signature

Consent Policy
 Consent Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: August 10, 2010
xc: Treasurer, Co.Co.

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: District: Agenda Number:

9.18

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

Departmental Concurrence

County Counsel

Recommendation for Distribution of Excess Proceeds for Tax Sale No. 171,
Items 53-61, Items 82-139, Items 174-191 and Items 210-243

August 4, 2010

Page 2

BACKGROUND: This matter was continued originally from the Board's June 8, 2010 agenda to determine whether the claimants desired to reach a mutual resolution of the division of the excess proceeds. (A copy of the original Form 11 is attached.) The City of Perris Business Park LLC and the City of Perris have agreed that the excess proceeds should be divided and distributed by the County, \$54,409.68 to the City of Perris Business Park LLC and \$28,000 to the City of Perris. This division is reflected in the proposed Settlement Agreement and Release of Claims (attached) which will ultimately resolve the issues raised in Perris Business Park LLC v. County of Riverside et al. (Riverside Superior Court No. RIC 520704).

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

925



FROM: Don Kent, Treasurer/Tax Collector

SUBMITTAL DATE:
May 26, 2010

SUBJECT: Recommendation for Distribution of Excess Proceeds for Tax Sale No. 171, Items 53-61, Items 82-139, Items 174-191 and Items 210-243.

Last assessed to: Perris Business Park, a General Partnership.


RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the claim from the City of Perris, for payment of excess proceeds from the Tax Collector's public auction sale associated with parcels 303272001-6 thru 303272009-4, 303276001-8 thru 303276020-5, 303277001-1 thru 303277020-8, 303281001-4 thru 303281018-0, 303283001-0 thru 303283018-6, 303285001-6 thru 303285020-3 and 303286001-9 thru 303286014-1 and waive the late filing of that claim;

(Continued on Page 2)

BACKGROUND: In accordance with Section 3691 et seq. of the California Revenue and Taxation Code, and with prior approval of the Board of Supervisors, the Tax Collector conducted the March 21, 2005 public auction sale. The deed conveying title to the purchasers at the auction was recorded April 22, 2005. Further, as required by Section 4676 of the California Revenue and Taxation Code, notice of the right to claim excess proceeds was given on June 14, 2004, to parties of interest as defined in Section 4675 of said code. Parties of interest have been determined by an examination of lot book reports as well as Assessor's and Recorder's records, and various research methods were used to obtain current mailing addresses for these parties of interest.

(Continued on page two)


Don Kent, Treasurer/Tax Collector

FINANCIAL DATA	Current F.Y. Total Cost:	\$82,409.68	In Current Year Budget:	NO
	Current F.Y. Net County Cost:	\$0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$0	For Fiscal Year:	2009-10

SOURCE OF FUNDS: Fund 65595 Excess Proceeds from Tax Sale	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 

Christopher M. Hans

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: Dale A. Gardner 5/19/10
DATE: 5/19/10
Departmental Concurrence

Policy

Consent

Dept't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 12/9/08, Agn 9.22 | District: 5 | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

9.18

258

EXECUTIVE
OFFICE
10 MAY 29 AM 10:26
COUNTY OF RIVERSIDE

RECEIVED RIVERSIDE COUNTY



2010 JUN - 1 PM 1:05

BOARD OF SUPERVISORS

Form 11:

Page 2

RECOMMENDED MOTION: (Continued)

- 2) Deny the claim from Perris Business Park, LLC because the claim from the City of Perris has statutory priority over Perris Business Park's claim and because the claim from the City of Perris exceeds the amount of excess proceeds available for distribution;
- 3) Authorize and direct the Auditor-Controller to issue a warrant to the City of Perris in the amount of \$82,409.68, no sooner than ninety days from the date of this order, unless pursuant to the California Revenue and Taxation Code Section 4675, an appeal has been filed in Superior Court;
- 4) Grant official notice of the documents filed with the Clerk of the Board relative to Perris Business Park, LLC v. County of Riverside, RIC 520704 and make them part of the record of this proceeding.

This matter was originally before the Board for hearing and action on December 9, 2008. At that time the Board approved the distribution of the excess proceeds to the City of Perris on its claim. However, due to a clerical error, the claim from Perris Business Park, LLC had been misfiled and no hearing was afforded to Perris Business Park, LLC on its claim. On January 14, 2010, the Superior Court granted a Writ ordering the Board to re-hear this matter, taking into account the claim of Perris Business Park, LLC.

The Treasurer-Tax Collector has received two claims for excess proceeds:

- 1) Claim from the City of Perris, based on a Notice of Levy recorded November 25, 1996 as Instrument No. 448748.
- 2) Claim from Perris Business Park, LLC, based on a Grant Deed recorded May 12, 1992 as Instrument No. 169570.

Pursuant to Section 4675 (a) & (e) of the California Revenue and Taxation Code, it is the recommendation of this office that the City of Perris be awarded excess proceeds in the amount of \$82,409.68 because its claim as a lien-holder of record has statutory priority over the claim from Perris Business Park, LLC which was merely the title record holder of the parcels prior to the recordation of the tax deed. The claim from Perris Business Park LLC should be denied because the priority claim from City of Perris exceeds the amount of excess proceeds available and there are no monies available to satisfy the subordinate claim from Perris Business Park, LLC. Supporting documentation has been provided. Although the above mentioned claim from the City of Perris was received a few weeks late, the Tax Collector is recommending approval since the Levy is still outstanding to the City of Perris from Perris Business Park, LLC on the delinquent CFD taxes and because it appears that the late filing was due to an error by the City's consultant.

EP171	Item 53	\$ 2,911.73	EP171	Item 54	\$ 2,007.47
EP171	Item 55	\$ 2,007.47	EP171	Item 56	\$ 2,007.47
EP171	Item 57	\$ 2,007.47	EP171	Item 58	\$ 2,007.47
EP171	Item 59	\$ 2,007.47	EP171	Item 60	\$ 2,007.47
EP171	Item 61	\$ 2,007.47	EP171	Item 82	\$ 303.82
EP171	Item 83	\$ 232.68	EP171	Item 84	\$ 232.68
EP171	Item 85	\$ 232.68	EP171	Item 86	\$ 232.68
EP171	Item 87	\$ 232.68	EP171	Item 88	\$ 232.68
EP171	Item 89	\$ 232.68	EP171	Item 90	\$ 232.68
EP171	Item 91	\$ 303.82	EP171	Item 92	\$ 303.82
EP171	Item 93	\$ 232.68	EP171	Item 94	\$ 232.68
EP171	Item 95	\$ 232.68	EP171	Item 96	\$ 242.58
EP171	Item 97	\$ 232.68	EP171	Item 98	\$ 232.68
EP171	Item 99	\$ 232.68	EP171	Item 100	\$ 232.68

BOARD OF SUPERVISORS

Form 11:

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EP171	Item 101	\$	303.82	EP171	Item 102	\$	381.13
EP171	Item 103	\$	303.77	EP171	Item 104	\$	303.77
EP171	Item 105	\$	303.77	EP171	Item 106	\$	303.77
EP171	Item 107	\$	303.77	EP171	Item 108	\$	303.77
EP171	Item 109	\$	303.77	EP171	Item 110	\$	303.77
EP171	Item 111	\$	611.44	EP171	Item 112	\$	611.44
EP171	Item 113	\$	303.77	EP171	Item 114	\$	303.77
EP171	Item 115	\$	303.77	EP171	Item 116	\$	303.77
EP171	Item 117	\$	303.77	EP171	Item 118	\$	303.77
EP171	Item 119	\$	303.77	EP171	Item 120	\$	303.77
EP171	Item 121	\$	381.13	EP171	Item 122	\$	1,118.83
EP171	Item 123	\$	679.57	EP171	Item 124	\$	679.57
EP171	Item 125	\$	679.57	EP171	Item 126	\$	679.57
EP171	Item 127	\$	679.57	EP171	Item 128	\$	679.57
EP171	Item 129	\$	679.57	EP171	Item 130	\$	679.57
EP171	Item 131	\$	679.57	EP171	Item 132	\$	679.57
EP171	Item 133	\$	679.57	EP171	Item 134	\$	679.57
EP171	Item 135	\$	679.57	EP171	Item 136	\$	679.57
EP171	Item 137	\$	679.57	EP171	Item 138	\$	679.57
EP171	Item 139	\$	679.57	EP171	Item 174	\$	471.83
EP171	Item 175	\$	387.16	EP171	Item 176	\$	387.16
EP171	Item 177	\$	387.16	EP171	Item 178	\$	387.16
EP171	Item 179	\$	387.16	EP171	Item 180	\$	387.16
EP171	Item 181	\$	387.16	EP171	Item 182	\$	808.71
EP171	Item 183	\$	724.04	EP171	Item 184	\$	387.16
EP171	Item 185	\$	387.16	EP171	Item 186	\$	387.16
EP171	Item 187	\$	387.16	EP171	Item 188	\$	387.16
EP171	Item 189	\$	387.16	EP171	Item 190	\$	387.16
EP171	Item 191	\$	471.83	EP171	Item 210	\$	90.05
EP171	Item 211	\$	36.13	EP171	Item 212	\$	36.13
EP171	Item 213	\$	36.13	EP171	Item 214	\$	36.13
EP171	Item 215	\$	36.13	EP171	Item 216	\$	36.13
EP171	Item 217	\$	36.13	EP171	Item 218	\$	36.13
EP171	Item 219	\$	90.05	EP171	Item 220	\$	90.05
EP171	Item 221	\$	36.13	EP171	Item 222	\$	36.13
EP171	Item 223	\$	36.13	EP171	Item 224	\$	36.13
EP171	Item 225	\$	36.13	EP171	Item 226	\$	36.13
EP171	Item 227	\$	36.13	EP171	Item 228	\$	36.13
EP171	Item 229	\$	90.05	EP171	Item 230	\$	2,551.25
EP171	Item 231	\$	2,086.31	EP171	Item 232	\$	2,086.31
EP171	Item 233	\$	2,086.31	EP171	Item 234	\$	2,086.31
EP171	Item 235	\$	2,086.31	EP171	Item 236	\$	2,086.31
EP171	Item 237	\$	2,086.31	EP171	Item 238	\$	2,086.31
EP171	Item 239	\$	2,086.31	EP171	Item 240	\$	2,086.31
EP171	Item 241	\$	2,086.31	EP171	Item 242	\$	2,086.31
EP171	Item 243	\$	2,551.25				

TOTAL \$ 82,409.68

SETTLEMENT AGREEMENT & RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (the "Agreement") is entered into by and between Petitioner PERRIS BUSINESS PARK, LLC, a limited liability company ("Petitioner" or "Perris Business Park"), Respondent COUNTY OF RIVERSIDE ("Respondent" or "County") and Real Party in Interest, CITY OF PERRIS ("Real Party In Interest" or the "City") and ("Petitioner," "Respondent," and "Real Party In Interest" are sometimes referred to herein together as the "Parties") to terminate and release fully and finally all disputes arising out of, or related to, the Action defined hereinafter.

RECITALS

WHEREAS, on or about December 9, 2008, the County Board of Supervisors (the "Board") held a public hearing to consider the distribution of \$82,409.68 in excess proceeds resulting from the tax sale of real property in Perris, California previously owned by Petitioner ("Excess Proceeds") and granted said Excess Proceeds to Real Party In Interest; and

WHEREAS, a dispute between Petitioner, Respondent and Real Party In Interest thereafter arose concerning the distribution of the Excess Proceeds (the "Dispute"); and

WHEREAS, as a result of the Dispute, Petitioner filed a petition for writ of mandate (the "Petition") against the Respondent and the City (as a real party in interest) in the Superior Court of the State of California, County of Riverside, Case No. RIC520704 on or about March 5, 2009, entitled *Perris Business Park v. County of Riverside, et al*, seeking to set aside the Board's determination to grant the Excess Proceeds to Real Party In Interest (the "Action"); and

WHEREAS, on or about January 14, 2010, the Court granted the Petition, thereby vacating the Board's award of the Excess Proceeds to Real Party In Interest, and remanded the determination back to the Board; and

WHEREAS, on or about June 8, 2010, the Board held a public hearing to reconsider the distribution of the Excess Proceeds, continued the public hearing, and requested that the Parties consider settlement; and

WHEREAS, all Parties hereto wish to terminate this Action and to avoid the uncertainty and costs of trial, and any potential appeals therefrom, and to resolve fully and finally all disputes which may exist by and between the Parties as set forth in the Action.

AGREEMENT

NOW, THEREFORE, for full and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and based upon the foregoing recitals and the terms, conditions, covenants, and agreements contained herein, all Parties hereto agree as follows:

1. **Settlement Payment.** Respondent agrees that it will pay Twenty Eight Thousand Dollars and Zero Cents (\$28,000.00) of the Excess Proceeds to Real Party In Interest and pay the remaining Fifty Four Thousand Four Hundred and Nine Dollars and Sixty-Eight Cents

(\$54,409.68) of the Excess Proceeds to Petitioner in full consideration and settlement of any and all claims by any party herein (the "Settlement Sums"). Said Settlement Sums constitute a full and complete settlement and compromise of any and all disputed claims arising out of or related to the Action by Petitioner.

2. **Mutual Release.** For valuable consideration, the receipt and adequacy of which are hereby acknowledged, Petitioner, Respondent, and Real Party In Interest do hereby release and forever discharge each other and the "Releasees" hereunder, consisting of the Petitioner and Real Party In Interest's and Respondent's elected or appointed public officials, officers, employees and agents, including, but not limited to, each of their associates, predecessors, successors, heirs, assignees, agents, directors, officers, employees, representatives, elected or appointed public officials, attorneys, and all persons acting by, through, under or in concert with them, or any of them), of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, loss, cost or expenses, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter called "Claims"), which the Parties now have or may hereafter have against the Releasees, or any of them, by reason of any matter, cause, or thing whatsoever from the beginning of time to the date hereof including, without limiting the generality of the foregoing, any Claims constituting, arising out of, based upon, or relating to the Action, as well as any matters, causes, or things whatsoever that were, or have been, could in any way have been, alleged in the respective pleadings filed in said suit.

3. **Discovery of Different or Additional Facts.** The Parties acknowledge that they may hereafter discover facts different from or in addition to those that they now know or believe to be true with respect to the claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are the subject of the Release set forth in Paragraph 2 of this Agreement, and expressly agree to assume the risk of the possible discovery of additional or different facts, and the Parties agree that this Agreement shall be and remain effective in all respects regardless of such additional or different facts.

4. **Release of Unknown Claims.** The Mutual Release set forth above in Paragraph 2 of this Agreement is a release of ALL claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are described in the Mutual Release and is intended to encompass all known and unknown, foreseen and unforeseen claims which the Parties may have as a result of the Action, except for any claims which may arise from the terms of this Agreement.

5. **Waiver of Civil Code Section 1542.** Further, the Parties expressly agree to waive and relinquish all rights and benefits they may have against each other and the Released Parties under Paragraph 2 of this Agreement based on Section 1542 of the Civil Code of the State of California. That section reads as follows:

" §1542. [General release; extent] A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

6. **No Pending Actions.** The Parties represent that they have not filed any complaints or charges (other than the Action referenced above) against each other (including the Releasees above) with any local, state or federal agency or court; and that if any such agency or court assumes jurisdiction of any complaint or charge against the Respondent, Real Party In Interest, or their predecessors, successors, heirs, assigns, employees, shareholders, officers, directors, agents, attorneys, subsidiaries, divisions or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner, on behalf of that party, whenever filed, that party bringing such an action will request such agency or court to withdraw and dismiss the matter forthwith. Furthermore, Petitioner agrees to take no further steps to prosecute the Action and/or to seek the recovery of attorneys' fees and/or costs concerning the same, and agrees not to file any appeal(s) concerning the Action.

7. **Non-Admission of Liability.** The Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Parties have settled nor the terms of this Agreement shall be construed in any manner as an admission of any liability by any party hereto, or any of its employees, or an affiliated person(s) or entity/ies, including the Respondent's or Real Party in Interest's attorneys, all of whom have consistently taken the position that they have no liability whatsoever to Petitioner.

8. **No Assignment of Claims.** The Parties warrant that they have made no assignment, and will make no assignment, of any claim, chose in action, right of action or any right of any kind whatsoever, embodied in any of the claims and allegations referred to herein, and that no other person or entity of any kind had or has any interest in any of the demands, obligations, actions, causes of action, debts, liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses or claims referred to herein.

9. **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.

10. **Knowing and Voluntary.** This Agreement is an important legal document and in all respects has been voluntarily and knowingly executed by the Parties hereto. The Parties specifically represent that prior to signing this Agreement they have been provided a reasonable period of time within which to consider whether to accept this Agreement. The Parties further represent that they have each carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, knowingly, and without coercion entering into this Agreement based upon their own judgment. The Parties further specifically represent that prior to signing this Agreement they have conferred with their counsel to the extent desired concerning the legal effect of this Agreement.

11. **Assistance of Counsel.** The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective counsel prior to executing this Agreement concerning the terms and conditions of this Agreement.

12. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

13. **Singular and Plural.** Whenever required by the context, as used in this Agreement the singular shall include the plural, and the masculine gender shall include the feminine and the neuter, and the feminine gender shall include the masculine and the neuter.

14. **Enforcement Costs.** Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

15. **Severability.** Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

16. **Headings.** Headings at the beginning of each numbered section of this Agreement are solely for the convenience of the Parties and are not a substantive part of this Agreement.

17. **Ambiguity.** The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the Parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

18. **Waiver.** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

19. **Governing Law.** This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles.

20. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

21. **Authority To Sign.** The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party and to bind that party,

including its members, agents and assigns, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

22. **Modifications.** Any alteration, change, or modification of or to this Agreement shall be made by written instrument executed by each party hereto in order to become effective.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release of All Claims, consisting of a total of 7 pages, hereby approving all of the terms and conditions above, on the dates set forth below.

“REAL PARTY IN INTEREST”

CITY OF PERRIS

Dated: OCT 12, 2010

By: [Signature]
RICHARD BELMUDEZ
City Manager

ATTEST:

Judy L. Haughey, C.M.C.
BY: [Signature]
City Clerk

“RESPONDENT”

Dated: _____, 2010

COUNTY OF RIVERSIDE

By: [Signature]
MARION ASHLEY
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:
KECIA HARPER-JHEM, Clerk
By: [Signature]
DEPUTY

“PETITIONER”

Dated: _____, 2010

PERRIS BUSINESS PARK

By:
Its:

APPROVED AS TO FORM:

Dated: 10/12/10, 2010

ALESHIRE & WYNDER, LLP

By: [Signature]
ERIC DUNN, ESQ.
City Attorney
Attorneys for Real Party In Interest, CITY OF PERRIS

Dated: 8/10/10, 2010

RIVERSIDE COUNTY COUNSEL

By: [Signature]
PAMELA WALLS, ESQ.
Attorney for Respondent, COUNTY OF RIVERSIDE

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release of All Claims, consisting of a total of 7 pages, hereby approving all of the terms and conditions above, on the dates set forth below.

"REAL PARTY IN INTEREST"

CITY OF PERRIS

Dated: _____, 2010

By: _____

RICHARD BELMUDEZ
City Manager

"RESPONDENT"

Dated: _____, 2010

COUNTY OF RIVERSIDE

By: _____

Its: _____

"PETITIONER"

Dated: August 5, 2010

PERRIS BUSINESS PARK, LLC

By: EDWARD J. GOEPPINGER / R. ALBERT BECK
Its: Controlling Members

APPROVED AS TO FORM:

Dated: _____, 2010

ALESHIRE & WYNDER, LLP

By: _____

ERIC DUNN, ESQ.
City Attorney
Attorneys for Real Party In Interest, CITY OF
PERRIS

Dated: _____, 2010

RIVERSIDE COUNTY COUNSEL

By: _____

PAMELA WALLS, ESQ.
Attorney for Respondent, COUNTY OF
RIVERSIDE

ATTEST:

Judy L. Haughey, C.M.C.

BY: _____
City Clerk

Dated: Aug. 5, 2010

PERRIS BUSINESS PARK, LLC

By: 

TANYA SIZEMORE HEILER, ESQ.
Attorney for Petitioner, PERRIS BUSINESS
PARK, LLC

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.14

9:30 a.m. being the time set for public hearing on the recommendation from County Counsel/Code Enforcement regarding Public Hearing on Distribution of Excess Proceeds for Tax Sale No. 171, Items 53-61, items 82-139, items 174-191 and items 210-243, last assessed to Perris Business Park, a General Partnership, 5th District.

On motion of Supervisor Stone, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, August 10, 2010 at 9:30 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on July 13, 2010 of Supervisors Minutes.

(seal)

WITNESS my hand and the seal of the Board of Supervisors
Dated: July 13, 2010
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

By:  Deputy

AGENDA NO.
9.14

xc: Treasurer, Auditor, COB

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.14

9:30 a.m. being the time set for public hearing on the recommendation from Treasurer-Tax Collector regarding Public Hearing on Distribution of Excess Proceeds for Tax Sale No. 171, Items 53-61, items 82-139, items 174-191 and items 210-243, last assessed to Perris Business Park, a General Partnership, 5th District. (Public Hearing Closed)

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is continued to Tuesday, July 13, 2010 at 9:30 a.m.

Roll Call:

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: None
Absent: Ashley

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 29, 2010 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 29, 2010
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
9.14

xc: Treasurer, COB

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.14

9:30 a.m. being the time set for public hearing on the recommendation from the Treasurer-Tax Collector regarding Distribution of Excess Proceeds for Tax Sale No. 171, Items 53-61, Items 82-139, Items 174-191 and Items 210-243, last assessed to Perris Business Park, a General Partnership.

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is continued to Tuesday, June 29, 2010 at 9:30 a.m.

Roll Call:

Ayes: Buster, Benoit and Ashley
Nays: None
Absent: Tavaglione and Stone

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 15, 2010 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 15, 2010
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By: [Signature] Deputy

AGENDA NO.
9.14

xc: Treasurer, ~~COB~~

Riverside County Board of Supervisors
Request to Speak

6 mins.

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Tanya Hehir (heh-heh)

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: _____

Date: 6/15/10 **Agenda #** 9.14

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
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_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____

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SPEAKER'S NAME: R. Albert Beck

Address: _____
(only if follow-up mail response requested)

City: Riverside **Zip:** 92507

Phone #: 684 2335

Date: 6-15-2010 **Agenda #** 9.14

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_____ **Support** **Oppose** _____ **Neutral**

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_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: ~~Edward Croppinger~~
Tanya Hehir

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6 min

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SPEAKER'S NAME: EDWARD GOEPPINGER

Address: _____
(only if follow-up mail response requested)

City: RIVERSIDE **Zip:** 92506

Phone #: 951-683-7227

Date: 6-15-10 **Agenda #** 9.14

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 Support X Oppose Neutral

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 Support Oppose Neutral

I give my 3 minutes to: _____

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SPEAKER'S NAME: Bruce Becht

Address: 2
(only if follow-up mail response requested)

City: Riverside **Zip:** 92501

Phone #: 780 7402

Date: 6-15-2016 **Agenda #** 9.14

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Position on "Regular" (non-appealed) Agenda Item:

 Support x **Oppose** **Neutral**

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I give my 3 minutes to: Edward Goepfinger

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MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.26

9:30 a.m. being the time set for public hearing on the recommendation from Treasurer-Tax Collector regarding Distribution of Excess Proceeds for Tax Sale No. 171, Items 53-61, items 82-139, items 174-191 and items 210-243, last assessed to Perris Business Park, a General Partnership, 5th District, the chairman called the matter for hearing.

Melissa Johnson, Chief Deputy Treasurer-Tax Collector, presented the matter.

The following people spoke on the matter:

Edward Goepfinger
Tanya Hehir
Anthony Taylor

The chairman closed the public hearing.

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, June 15, 2010 at 9:30 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 8, 2010 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 8, 2010
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
9.26

xc: Treasurer, ~~COB~~

9 MINS.

**Riverside County Board of Supervisors
Request to Speak**

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SPEAKER'S NAME: EDWARD GOEPPINGER

Address: 5280 STONEWOOD DR
(only if follow-up mail response requested)

City: RIVERSIDE **Zip:** 92506

Phone #: 951 683-7627

Date: 6-8-10 **Agenda #** 9.26

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 Support X Oppose Neutral

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 Support Oppose Neutral

I give my 3 minutes to: _____

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SPEAKER'S NAME: JANE HISKUTIN

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: _____

Date: 6/8/10 **Agenda #** 9.26

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I give my 3 minutes to: EDWARD GOEPPINGER

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SPEAKER'S NAME: VIT LISKUTIN

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: _____

Date: _____ **Agenda #** 9.26

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I give my 3 minutes to: EDWARD J. GOETTINGER
OF PERRIS BUSINESS PARK

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SPEAKER'S NAME: Anthony Taylor

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: 949 250-5427

Date: 06/08/10 **Agenda #** 9.26

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support _____ **Oppose** _____ **Neutral** _____
Alword to City of Perri's

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6 mins

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: TANYA HEMIR

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: _____

Date: 10-8-10 **Agenda #** 9.26

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** **Oppose** _____ **Neutral**

I give my 3 minutes to: _____

BOARD RULES

Requests to Address Board on "Agenda" Items:

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

Requests to Address Board on items that are "NOT" on the Agenda:

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

Power Point Presentations/Printed Material:

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

Individual Speaker Limits:

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

Group/Organized Presentations:

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

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**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: R. ALBERT BECK

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: 951 684 2335

Date: 6-8-10 **Agenda #** 9.26

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: TANYA HEHIR

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Perris Business Park
5280 Stonewood Drive
Riverside, CA. 92506
Home Phone (951) 683 – 7627
Fax: (951) 776-1706

June 8, 2010

Board of Supervisors
Riverside County
4080 Lemon Street, 5th Floor
P. O. Box 1527
Riverside, CA. 92502-1527

Ref.: Board of Supervisors Meeting June 8, 2010, item 9.26
Excess Proceeds from Sale of Tax Defaulted Property; Tax Sale No. 171

Dear Members of the Board:

In addition to other documentation available in this case, Perris Business Park, LLC, (PBP) is submitting this letter for your kind consideration before making the final decision regarding distribution of the proceeds from the above referenced sale. This letter is submitted in support to distribute the proceeds to PBP because any other decision would be unjust and unfair.

The notice of right to claim excess proceeds dated June 14, 2005 from the County Tax Collector's office instructed PBP, as a party of interest, that “. . . **your claim must be filed within one year of the date the deed to the purchaser was recorded. By law, we cannot accept claims after one year from this recording date.**” In addition, the notice specifies the final date to submit a claim as being April 24, 2006.

The deed to the purchaser was recorded on April 22, 2005. PBP filed its claim timely on or about October 20, 2005 and the claim was accepted by the County for processing. The claim was prepared with assistance of the personnel of the Tax Collector's Office and accepted by the same personnel upon its filing. The one-year rule was repeatedly stressed **as absolute** by the personnel of the Tax Collector's office during frequent communication with the representatives of PBP. They told us that the one-year deadline applied equally to the City of Perris and that a late filing by either claimant would be voided.

However, in spite of compliance by PBP with all requirements of preparing and timely filing the claim with the County, the claim was **lost by the County Tax Collector's Office.** Instead of processing a properly and timely filed claim by PBP, the Tax Collector Office contacted and encouraged the City of Perris to file its claim even knowing that the City's claim will be filed late, in violation of the one year deadline rule. Eventually the City filed its claim on or about June 27, 2006, nearly **9 weeks** after the deadline.

It is still unclear why the County Tax Collector's Office lost the timely and properly filed claim prepared carefully by PBP with assistance of the County's personnel, on the one hand, but on the other

Submitted by ED GOEPINGER

06/08/10 Item 9.26
(date)

hand the same personnel made an extra effort to contact and encourage City of Perris to file its late claim, and were willing to accept this late claim for processing in violation of its own rules so adamantly and repeatedly communicated to PBP and the public at large.

After filing the claim, we contacted the Tax Collector's Office again to inquire whether or not there were any excess proceeds from the sale and they informed us that no excess proceeds were available for distribution.

The Submittal to the Board of Supervisors by the County Tax Collector's Office dated November 5, 2008 recommended to distribute the proceeds to City of Perris. It stated that "The Treasurer - Tax Collector has received one claim for excess proceeds: Claim from City of Perris. . .", and that "**Normally we recommend denial of all claims beyond the statutory one year claim period.** Although the above mentioned claims (from City of Perris) were received a **few weeks late**, the Tax Collector is recommending approval since there were no other claimants. In fact, no other potential claimants were identified. **Were there potential claimants our recommendation would not necessarily be the same.**"

PBP did not receive notice that the item would be heard on December 9, 2008. We learned only later, that there were in fact excess proceeds available, that PBP's timely filed claim was not considered due to the Tax Collector's Office losing it, and the proceeds were awarded to the late claim by City of Perris with justification being the lack of any other claimant or claim. Under these circumstances, PBP was forced to file an appeal in the Courts.

At first, the County denied ever receiving the claim by PBP. Eventually, the County's counsel, under the weight of evidence, admitted that PBP did file its timely claim. The Court properly decided that the final decision regarding distribution of excess proceeds vests in the Board of Supervisors and returned the matter to the Board for the final decision in the **light of the newly disclosed evidence**, the claim timely filed by PBP. At the closing, the County's counsel verbally indicated that, in the light of this evidence, it is likely that the recommendation would support final decision in the favor of the PBP's claim.

However, the Submittal to the Board by the Tax Collector dated May 26, 2010 in preparation for today's hearing, recommends allocation of the excess proceeds in favor of the City of Perris. This recommendation does state that the claim by PBP "was misfiled due to a clerical error" ignoring responsibility of the County for losing the claim on the one hand, and on the other hand completely downplaying the lateness of the claim of City of Perris calling it "a few weeks late" while in fact the claim was filed nearly 9 weeks late, and should automatically have been voided.

Further, while the findings and the language in the Tax Collector's November 2008 Submittal justifies award of the excess proceeds to City of Perris due to lack of any other claimant or claim (see above), the latest recommendation ignores this justification all together, by now invalidated by "discovering PBP's claim", and resorts to other justifications to support the same result not included in the original recommendation. Priority of claims only applies to valid, timely filed claims.

The two positions of the Tax Collector's Office stated in the official Submittals are blatantly inconsistent and capricious, thus resulting in confusion and misleading of the public. When pursuing legal action to recover the lost claim, PBP acted in reliance on the Tax Collector's statement in the earlier Submittal stating the only claim was that of the City. Logical action based on the original

recommendation of the Tax Collector was that if the claim is shown as timely filed, the excess proceeds must be awarded to the claimant, PBP, who complied with the process. However, after the effort and the expense spent to prove only what was the truth at the beginning of the action, that **the claim was timely and properly filed by PBP**, the Tax Collector's Office now found a different justification to defend its original recommendation and to defuse its responsibility for losing PBP's timely filed claim.

This result, if affirmed, is unfair and unjust, confusing and capricious. It would show inconsistency in the manner how the County communicates with the public regarding expected compliance with rules and requirements on the one hand, and lack of its own compliance with the same rules and obligations to individual members of the public on the other hand.

The City of Perris blames its consultant for being late with the claim. The City has the means and duty to hire a competent consultant to receive competent service or to accept the consequences of the contrary results. This is not sufficient reason to overrule PBP's rights. It is doubtful that PBP or any other member of the general public would be afforded the same leniency from the Tax Collector.

In addition, it should be noted that the City of Perris entered into an agreement with the Purchaser and Developer of the subject parcels, Perris Alere LLC, in which the Purchaser paid "the outstanding installment amounts of the CFD taxes that were delinquent or due on the Purchase Date together with administrative fees and legal fees." The City received \$901,637.04 on September 8, 2006 from the Developer. The agreement further states that the "Developer is proposing to build an approximately 650,000 square foot industrial warehouse distribution center (the "Project") on the Property in exchange for the City agreeing to waive all penalties and interest that accrued on the delinquent CFD Taxes..." The City approved the proposed project on March 31, 2009 (DPR-06-0432 and TPM 35268) and the agreement is valid. In light of these facts, it cannot be said that the City of Perris is an innocent party in jeopardy of losing taxes due because of being misled by the conduct of others and deserves special leniency regarding compliance with rules of filing a timely claim. In fact, the City of Perris is double-dipping at PBP's expense.

Finally, the "Claim from the City of Perris is based on a Notice of Levy recorded November 25, 1996 as Instrument No. 448748." The same Notice of Levy was cited in another issue before the Board on December 9, 2008 (agenda item 9.23) in which the Tax Collector recommends "the claim from the City of Perris be denied since the Notice of Levy has since been paid in full." The City of Perris does not have a valid claim based on Notice of Levy according to the statements made by the Tax Collectors office.

The Board of Supervisors has adopted a code of ethics addressing our expectations for the County behavior and public accountability: honesty, truthfulness, abide by all laws, equal ethical treatment of citizens, and ethical quality of decisions, to name a few. Your decisions on this matter will clearly demonstrate the Board's personal and collective commitment to these high principles. A decision in favor of the City of Perris would violate all of these principles of ethical conduct and avoid the intent of the Court to take a fresh look at the decision you would have made on December 9, 2008 if you had all of today's facts. Should you decide to affirm your original decision based on the current recommendation of the Tax Collector, the question remaining to be answered would be: Where is the fair and just remedy to PBP for the wrong it suffered due to the County losing the claim resulting in time and expense to bring this case before you a second time in light of these facts?

We should be driven by ethics as principles, not as rules to be exploited for what you can or cannot get away with. -J.Brunel

Therefore, consistent with the spirit of the Court's decision, the Board of Supervisor's decision must be to deny the invalid, late claim of the City of Perris and approve the only timely filed claim from Perris Business Park, LLC for the excess proceeds.

Very Truly Yours,

R. Albert Beck

R. Albert Beck
Perris Business Park, LLC, member

Edward J. Goepfinger
Edward J. Goepfinger
Perris Business Park, LLC, member

c.c.:

Hon. Marion Ashley, Chairman, District 5
Hon. Bob Buster, Supervisor, District 1
Hon. John F. Tavaglione, Supervisor, District 2
Hon. Jeff Stone, Supervisor, District 3
Hon. John J. Benoit, Supervisor, District 4
Clerk, Board of Supervisors

CLAIM FOR EXCESS PROCEEDS FROM THE SALE OF TAX-DEFAULTED PROPERTY
(SEE REVERSE SIDE FOR FURTHER INSTRUCTIONS)

To: Paul McDonnell, Treasurer and Tax Collector

Re: Claim for Excess Proceeds

TC Item Assessment No.: See Exb A

Assessee: Perris Business Park, LLC

Situs:

Date Sold: March 21, 2005

Date Deed to Purchaser Recorded: April 22, 2005

RIVERSIDE COUNTY
TREASURER/TAX COLLECTOR

05 OCT 21 PM 3:17

RECEIVED

I/We, pursuant to Revenue and Taxation Code Section 4675, hereby claim excess proceeds in the amount of \$ ALL from the sale of the above mentioned real property. I/We were the lienholder(s), property owner(s) [check in one box] at the time of the sale of the property as is evidenced by Riverside County Recorder's Document No. 100129; recorded on 3/23/92. A copy of this document is attached hereto. I/We are the rightful claimants by virtue of the attached assignment of interest. I/We have listed below and attached hereto each item of documentation supporting the claim submitted.

NOTE: YOUR CLAIM WILL NOT BE CONSIDERED UNLESS THE DOCUMENTATION IS ATTACHED.

1. Copy of grant deed recorded October 7, 1998 as Instrument #435418

Official Records of County of Riverside

2. Transcript of Articles of Organization #101998176025, dated 6/25/98

3. Exhibit A - List of properties

If the property is held in Joint Tenancy, the taxsale process has severed this Joint Tenancy, and all Joint Tentants will have to sign the claim unless the claimant submits proof that he or she is entitled to the full amount of the claim, the claimant may only receive his or her respective portion of the claim.

I/We affirm under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 20__ at _____

Edward J. Goeppinger PERRIS BUSINESS PARK, LLC County, State
Signature of Claimant Signature of Claimant
Edward J. Goeppinger, Trustee of E. J. Goeppinger Family Trust, (Member) R. Albert Beck, Trustee of The Beck Family Trust, (Member)

Print Name

5280 Stonewood Drive

Street Address

Riverside, CA 92506

City, State, Zip

(951) 683-7627

Phone Number

Print Name

Same

Street Address

City, State, Zip

City, State, Zip

Phone Number

Phone Number

435418

RECEIVED FOR RECORD
AT 8:00AM

OCT 7 1998

Recorded in Official Records
of Riverside County, California

Recorder

Fees \$ 21

RECORDING REQUESTED BY:)
)
)
When Recorded Mail Document)
And Tax Statement To:)
)
Perris Business Park, LLC)
c/o Edward J. Goepfinger)
5280 Stonewood Drive)
Riverside, CA 92506)

GRANT DEED

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$ -0- City tax \$ -0-

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale,
- Unincorporated Area City of Perris

21
TM
5

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

PERRIS BUSINESS PARK, A General Partnership ✓

hereby GRANTS to

PERRIS BUSINESS PARK, LLC

the following described real property in the City of Perris, County of Riverside, State of California.

SEE LEGAL DESCRIPTION ATTACHED AS EXHIBITS "A," "B," "C," AND "D"

DATED: 9- 11 -98

PERRIS BUSINESS PARK, A General Partnership

BY: Edward J. Goepfinger
Edward J. Goepfinger, Trustee ✓
Of the Goepfinger Family Trust,
General Partner
STATE OF CALIFORNIA)

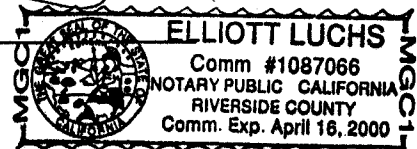
BY: R. Albert Beck
R. Albert Beck, Trustee ✓
Beck Family Trust, General Partner

COUNTY OF RIVERSIDE) ss.

On September 11, 1998, before me, ELLIOTT LUCHS, Notary Public, personally appeared EDWARD J. COEPPINGER and R. ALBERT BECK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Elliott Luchs
Notary Public



LOTS 3 THROUGH 8, 10 THROUGH 19, 21 THROUGH 25, 29 THROUGH 35, ALL INCLUSIVE, OF
TRACT NO. 24045-1, AS SHOWN BY MAP ON FILE IN BOOK 239 PAGES 6 THROUGH 9,
INCLUSIVE, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXHIBT "A"

All that portion of Lot 7 in Block 22 of the Riverside tract as shown by map on file in Map Book 14 at Page 668 Records of San Diego County, California described as follows:

Beginning the intersection of the South line of Lot "s" and the East line of Johnson Avenue of Tract 4269 as shown by map on file in Map Book 76 at Pages 9 through 14 inclusive, Records of Riverside County, California;

Thence North $89^{\circ}42'39''$ East along said South line of Lot "s", a distance of 624.75 feet to the East line of said Lot 7;

Thence South $0^{\circ}10'18''$ East along said East line of Lot 7, a distance of 145.00 feet to the North line of Rider Street, 60 feet in width;

Thence South $89^{\circ}42'39''$ West along said North line of Rider Street, a distance of 609.39 feet to the Southeast corner of Lot H, Johnson Avenue, of said Tract 4269;

Thence along the Easterly line of said Lot H, the following three courses and distances:

North $0^{\circ}17'21''$ West, a distance of 20.00 feet;

Westerly and Northerly on a non tangent curve concave Northeasterly having a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc distance of 23.56 feet (the initial radial line bears South $0^{\circ}17'21''$ East);

North $0^{\circ}17'21''$ West, a distance of 110.00 feet to the Point of Beginning.

EXHIBIT "B"

All that portion of Lot 6 in Block 22 of the Riverside tract as shown by map on file in Map Book 14 at Page 668 Records of San Diego County, California described as follows:

Beginning at the Southeast corner of Lot B of Tract 24045-1 as shown by map on file in Map Book 239 at Pages 6 through 9 thereof Records of Riverside County, California, said point is in the North line of Lot B (Rider Street) as shown on said Tract 24045-1,

Thence North $00^{\circ}16'27''$ West, along the East line of said Lot B and the East line of Lot 35 of said Tract 24045-1, a distance of 145.00 feet to the South line of Lot "r" of said Tract 4269 as shown by map on file in Map Book 76 at Pages 9 through 14 thereof Records of Riverside County, California;

Thence North $89^{\circ}42'39''$ East along said South line of Lot "r", a distance of 21.98 feet to the West line of Johnson Avenue of said Tract 4269;

Thence along said West line of Johnson Avenue the following three courses and distances:

South $0^{\circ}17'21''$ East a distance of 110.00 feet,

Southerly and Westerly along a curve concave Northwesterly having a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc distance of 23.56 feet,

South $00^{\circ}17'21''$ East, a distance of 20.00 feet to the North line of Rider Street, 60 feet in width, as shown on said Tract 4269;

Thence South $89^{\circ}42'39''$ West along said North line of Rider Street a distance of 7.02 feet to the Point of Beginning.

EXHIBIT "C"

THAT PORTION OF MONTERREY LANE (LOT "E") AND A PORTION OF LAKE VIEW DRIVE (LOT "G") OF TRACT MAP 4269 AS SHOWN BY MAP ON FILE IN BOOK 76, PAGES 9 THROUGH 14, INCLUSIVE, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE CENTERLINE INTERSECTION OF PERRIS BOULEVARD AND RIDER STREET AS SHOWN ON SAID TRACT MAP;

THENCE NORTH $89^{\circ} 42' 39''$ EAST ALONG SAID CENTERLINE OF RIDER STREET, A DISTANCE OF 1322.41 FEET TO THE CENTERLINE OF JOHNSON AVENUE AS SHOWN ON SAID TRACT MAP;

THENCE NORTH $0^{\circ} 17' 21''$ WEST ALONG SAID CENTERLINE OF JOHNSON AVENUE, A DISTANCE OF 175.00 FEET;

THENCE SOUTH $89^{\circ} 42' 39''$ WEST, A DISTANCE OF 33.00 FEET TO THE INTERSECTION POINT OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID JOHNSON AVENUE AND THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID MONTERREY LANE AS SHOWN ON SAID TRACT MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE SOUTH $89^{\circ} 42' 39''$ WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID MONTERREY LANE, A DISTANCE OF 24.22 FEET;

THENCE NORTH $0^{\circ} 17' 21''$ WEST A DISTANCE OF 30.00 FEET;

THENCE SOUTH $89^{\circ} 42' 39''$ WEST A DISTANCE OF 226.92 FEET TO A POINT ON A LINE PARALLEL WITH AND 21.14 FEET WESTERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF SAID LAKE VIEW DRIVE;

THENCE NORTH $0^{\circ} 17' 21''$ WEST ALONG LAST MENTIONED PARALLEL LINE, A DISTANCE OF 199.00 FEET;

THENCE NORTH $89^{\circ} 42' 39''$ EAST, A DISTANCE OF 42.36 FEET TO A POINT ON A LINE PARALLEL WITH AND 21.22 FEET EASTERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF SAID LAKE VIEW DRIVE;

THENCE NORTH $0^{\circ} 17' 21''$ WEST ALONG LAST SAID PARALLEL LINE, A DISTANCE OF 229.50 FEET;

THENCE NORTH $89^{\circ} 42' 39''$ EAST, A DISTANCE OF 8.78 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID LAKE VIEW DRIVE;

THENCE SOUTH $0^{\circ} 17' 21''$ EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID LAKE VIEW DRIVE, A DISTANCE OF 403.50 FEET;

EXHIBIT "D"

THENCE SOUTHEASTERLY ON A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, THROUGH AN ANGLE OF $90^{\circ} 00' 00''$, AN ARC LENGTH OF 23.56 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MONTERREY LANE;

THENCE NORTH $89^{\circ} 42' 39''$ EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MONTERREY LANE, A DISTANCE OF 170.00 FEET;

THENCE NORTHEASTERLY ON A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET, THROUGH AN ANGLE OF $90^{\circ} 00' 00''$, AN ARC LENGTH OF 23.56 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID JOHNSON AVENUE;

THENCE SOUTH $0^{\circ} 17' 21''$ EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID JOHNSON AVENUE, A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING

53	303272001-6
54	303272002-7
55	303272003-8
56	303272004-9
57	303272005-0
58	303272006-1
59	303272007-2
60	303272008-3
61	303272009-4
82	303276001-8
83	303276002-9
84	303276003-0
85	303276004-1
86	303276005-2
87	303276006-3
88	303276007-4
89	303276008-5
90	303276009-6
91	303276010-6
92	303276011-7
93	303276012-8
94	303276013-9
95	303276014-0
96	303276015-1
97	303276016-2
98	303276017-3
99	303276018-4
100	303276019-5
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102	303277001-1
103	303277002-2
104	303277003-3
105	303277004-4
106	303277005-5
107	303277006-6
108	303277007-7
109	303277008-8
110	303277009-9
111	303277010-9
112	303277011-0
113	303277012-1
114	303277013-2
115	303277014-3
116	303277015-4
117	303277016-5
118	303277017-6
119	303277018-7
120	303277019-8
121	303277020-8
122	303281001-4
123	303281002-5
124	303281003-6

125	303281004-7
126	303281005-8
127	303281006-9
128	303281007-0
129	303281008-1
130	303281009-2
131	303281010-2
132	303281011-3
133	303281012-4
134	303281013-5
135	303281014-6
136	303281015-7
137	303281016-8
138	303281017-9
139	303281018-0
174	303283001-0
175	303283002-1
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177	303283004-3
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179	303283006-5
180	303283007-6
181	303283008-7
182	303283009-8
183	303283010-8
184	303283011-9
185	303283012-0
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223	303285014-8
224	303285015-9
225	303285016-0
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228	303285019-3

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236	303286007-5
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238	303286009-7
239	303286010-7
240	303286011-8
241	303286012-9
242	303286013-0
243	303286014-1

SPACE ABOVE THIS LINE FOR RECORDER'S USE

State of California

Bill Jones
Secretary of State
SACRAMENTO



I, BILL JONES, Secretary of State of California, hereby certify:

*That the annexed transcript of 1 page(s) was prepared by
and in this office from the record on file, of which it purports to be a copy,
and that it is full, true and correct.*



*IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California*

JUN 26 1998

Bill Jones
Secretary of State



State of California
 Bill Jones
 Secretary of State

LLC-1

LIMITED LIABILITY COMPANY
 ARTICLES OF ORGANIZATION

IMPORTANT - Read the instructions before completing the form.
 This document is presented for filing pursuant to Section 17050 of the California Corporations Code.

1. Limited liability company name:
(End the name with "LLC" or "Limited Liability Company". No periods between the letters in "LLC", "Limited" and "Company" may be abbreviated in "LLC" and "Co.")

PERRIS BUSINESS PARK, LLC

2. Latest date (month/day/year) on which the limited liability company is to dissolve:

December 31, 2020

3. The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the Beverly-Killea Limited Liability Company Act.

4. Enter the name of initial agent for service of process and check the appropriate provision below:

Edward J. Goepfinger, which is

an individual residing in California. Proceed to Item 5.

a corporation which has filed a certificate pursuant to Section 1505 of the California Corporations Code. Skip Item 5 and proceed to Item 6.

5. If the initial agent for service of process is an individual, enter a business or residential street address in California:

Street address: 5280 Stonewood Drive

City: Riverside State: CALIFORNIA Zip Code: 92506

6. The limited liability company will be managed by: (check one)

one manager more than one manager limited liability company members

7. If other matters are to be included in the Articles of Organization attach one or more separate pages.

Number of pages attached, if any: None

8. It is hereby declared that I am the person who executed this instrument, which execution is my act and deed.

Edward J. Goepfinger
 Signature of organizer

Edward J. Goepfinger
 Type or print name of organizer

Date: 6-24, 19 98

For Secretary of State Use

101998176025



FILED
 in the office of the Secretary of State
 of the State of California

JUN 25 1998

Bill Jones

BILL JONES, Secretary of State

PERRIS BUSINESS PARK, LLC

5280 Stonewood Drive
Riverside, CA 92506-1559
Home Phone (951) 683-7627

October 31, 2005

Ms. Colleen Espino, Deputy
Riverside County Treasurer and Tax Collector
County Administrative Center - 4th Floor
4080 Lemon Street. P.O. Box 12005
Riverside, CA

Dear Colleen,

In response to our meeting this past week, a copy of the Perris Business Park, LLC, Operating Agreement is enclosed as requested. This document gives all the detailed relationships between the Family Trusts as owners of Perris Business Park, LLC and the individual beneficiaries of these trusts, such as Al Beck and Ed Goepfinger who are the trustees of the Trusts.

A minority owner, the Beck Marital Irrevocable Trust is a passive owner and was not named in the Perris Business Park, LLC's claim for excess proceeds since the 86.666% ownership of the Beck and Goepfinger Trust prevails based on the Majority Voting Control shown in paragraph 5 of the Operating Agreement. Basically the LLC is the Claimant and all checks would be made out to the LLC.

As a favor, would you please insert the date on our claim document as the date of delivery, October 20, 2005? I think we jumped into so many other questions that I may have omitted completing the date of our signatures. Thanks.

Sincerely,
Perris Business Park, LLC


Edward J. Goepfinger

Encl: OpAgree

COVINGTON & CROWE LLP

FRANK J. LIZARRAGA, JR.
SAMUEL P. CROWE
PAUL J. BURKHART
TANYA D.S. HEHIR
JESSE T. MORRISON
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GEORGE W. PORTER
(1930-2008)

MAURICE G. COVINGTON
(1909-1997)

HAROLD A. BAILIN
(1930-1988)

March 8, 2010

VIA FACSIMILE
AND U.S. MAIL

Don Kent
Riverside County Treasurer/Tax Collector
P.O. Box 12005
Riverside, CA 92502

RE: Tax Sale No. 171, Items 53-61, 82-139, 174-191 and 210-243 ("Parcels")
(Perris Business Park v. County of Riverside, Case No. RIC 520704)

Dear Mr. Kent:

Please accept this letter in support of Perris Business Park, LLC's Claim for Excess Proceeds, originally submitted to Riverside County on or about October 20, 2005.

**I. PERRIS BUSINESS PARK ORIGINAL OWNED TWO SETS OF PARCELS
SOLD AT SEPARATE TAX SALES BY RIVERSIDE COUNTY**

The Parcels are contiguous parcels located within the City of Perris. Prior to the County's March 21, 2005 tax sale of the Parcels, they were owned by Perris Business Park, LLC. Prior to a November 7, 2005 tax sale, Perris Business Park, LLC also owned Assessor Parcel Number 303275036-7 ("Parcel 36"), which was also located within the City of Perris.

Originally, however, the Parcels and Parcel 36 were owned by Perris Business Park, a general partnership, which had purchased the Parcels and Parcel 36 through a single Grant Deed (document number 100129, recorded March 23, 1992) ("1992 Grant Deed"). After one of the partners passed away and his estate was probated, Perris Business Park, LLC succeeded to the interests of Perris Business Park, a general partnership, including its ownership of the Parcels and Parcel 36. Perris Business Park, LLC's succession in ownership of the Parcels and Parcel 36 was confirmed by a single Grant Deed (document number 435418, recorded on October 7, 1998) ("1998 Grant Deed").

A. PERRIS BUSINESS PARK, LLC SUBMITTED A TIMELY CLAIM FOR THE PARCELS' EXCESS PROCEEDS

On March 21, 2005, Riverside County sold the Parcels as Tax Sale No. 171. Perris Business Park received Riverside County's notice to claim the Parcels' excess proceeds on or about June 21, 2005 and began meeting and exchanging phone calls with Riverside County in order to prepare and file Perris Business Park, LLC's claim for the Parcels' excess proceeds. By October 20, 2005, Perris Business Park, LLC had met with Riverside County to prepare the excess proceeds claim, including receiving a claims form from Riverside County with "portions" of the pertinent information filled in by County personnel. During these communications, County staff forcefully emphasized that any claim to be accepted by the County must be filed within a one year period after recordation of the Deed.

On or about October 20, 2005, Perris Business Park, LLC submitted its claim form for the Parcels' excess proceeds to County Representative Ms. Colleen Espino, including supporting documentation listed on the claim form. Perris Business Park, LLC even followed up by sending Riverside County a letter on or about October 31, 2005, submitting additional information requested by the County on October 20, 2005.

On or about November 9, 2005, Perris Business Park, LLC spoke with Ms. Espino regarding the status of its claim for the Parcels' excess proceeds. Ms. Espino informed Perris Business Park, LLC that County Counsel would not review its claim until May or June 2006 and that she would advise of any changes. At a later follow-up meeting, however, Riverside County informed Perris Business Park, LLC that no excess proceeds were available to claim from the Parcels' tax sale.

B. PERRIS BUSINESS PARK, LLC ALSO SUBMITTED A TIMELY CLAIM FOR PARCEL 36'S EXCESS PROCEEDS

Meanwhile, on November 7, 2005, Riverside County sold Parcel 36 at public auction as Tax Sale No. 174, Item 8. By December 18, 2006, Perris Business Park, LLC met with Riverside County to prepare its excess proceeds claim related to Parcel 36, including receiving a claims form from Riverside County with "portions" of the pertinent information filled in by County personnel. On or about December 19, 2006, Perris Business Park, LLC submitted its claim for Parcel 36's excess proceeds, including its supporting documentation. Further, in response to the County's October 17, 2007 request, Perris Business Park, LLC submitted additional information to the County on October 24, 2007 in support of its claim. When Perris Business Park, LLC submitted its additional documentation to Riverside County staff member Ms. Desiree Taylor on October 24, 2007, Ms. Taylor acknowledged that the County needed additional time to review the supporting documentation and handwrote an acknowledging note and "extension" on the copy of Perris Business Park, LLC's submittal letter. During these communications, County staff forcefully emphasized that any claim to be accepted by the County must be filed within a one year period after recordation of the Deed.

After November 26, 2008, Perris Business Park, LLC received notice from Riverside County that its excess proceeds claim for Parcel 36 would be presented to Riverside County's Board of Supervisors on December 9, 2008. This November 26, 2008 notice included a copy of the Treasurer/Tax Collector's submittal recommending approval of Perris Business Park, LLC's claim for the entire \$67,131.24 in excess proceeds, over the City of Perris' claim for the same excess proceeds.

II. PERRIS BUSINESS PARK, LLC WAS AWARDED PARCEL 36'S EXCESS PROCEEDS BUT THE CITY OF PERRIS WAS AWARDED THE PARCELS' EXCESS PROCEEDS ON THE CITY'S LATE CLAIM BECAUSE "NO OTHER POTENTIAL CLAIMANTS WERE IDENTIFIED"

On December 11, 2008, Perris Business Park, LLC reviewed the status of its claim for Parcel 36's excess proceeds and learned that the Board of Supervisors had approved its claim for the entirety of Parcel 36's excess proceeds and denied the City of Perris' claim.

When Perris Business Park, LLC reviewed the status of its claim, however, it noticed that Agenda Item 9.22, the Agenda Item just prior to Parcel 36's excess proceeds, dealt with excess proceeds related to the Parcels. For the first time, Perris Business Park, LLC learned that not only were excess proceeds available to claim from the Parcels' tax sale, but that Riverside County had accepted the City of Perris late claim for those proceeds because "there were no other claimants." In fact, despite the fact that Agenda Item 9.23 detailed its approval of Perris Business Park, LLC's excess proceeds claim, which succeeded to the general partnership's original interest, Agenda Item 9.22 recommended approval of the City of Perris' claim in the amount of \$82,409.68 despite the City's untimely claim and stated:

"Normally we recommend denial of all claims beyond the statutory one year claim period. Although the above mentioned claims were received a few weeks late, the Tax Collector is recommending approval since there were no other claimants. In fact no other potential claimants were identified. Were there potential claimants our recommendation would not necessarily be the same."

III. IN THE WRIT OF MANDATE PROCEEDING, THE COUNTY ADMITTED TO LOOSING PERRIS BUSINESS PARK, LLC'S CLAIM AND THE CITY OF PERRIS SUBMITTING AN UNTIMELY CLAIM

Perris Business Park, LLC was thus required to file a Petition for Writ of Mandate with the Superior Court of the County of Riverside. In that proceeding, Riverside County admitted that it failed to review the timely claim for the Parcels' excess proceeds submitted by Perris Business Park, LLC. In that proceeding, the City of Perris admitted that its claim for excess proceeds was untimely, although it blamed its consultant for the untimely claim and argued that the lateness was immaterial. The court then mandated that the proceeding return to the County of Riverside to review Perris Business Park, LLC's claim.

IV. THE CITY OF PERRIS' UNTIMELY CLAIM CANNOT PREVAIL OVER THE TIMELY CLAIM OF PERRIS BUSINESS PARK, LLC BECAUSE CLAIMS MUST BE SUBMITTED WITHIN THE ONE-YEAR DEADLINE

A. REVENUE & TAXATION CODE SECTION 4675 MANDATES THAT CLAIMS MUST BE FILED WITHIN THE ONE-YEAR DEADLINE

There is no provision in the Revenue and Taxation Code regarding an untimely claim for excess proceeds. Instead, Section 4675¹ in plain language explicitly requires that excess proceeds must be claimed by an interested party as specified in Section 4675:

“(e) 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). ...”

Section 4675(a) then expressly limits the deadline to file a claim for excess proceeds to a one-year statutory deadline:

“(a) Any party of interest in the property may file with the county a claim for the excess proceeds ... at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.”

(Revenue and Taxation Code §4675(a) [emphasis added].)

B. RIVERSIDE COUNTY ADMITS THAT CLAIMS MUST BE FILED WITHIN ONE YEAR

Riverside County itself admits this statutory one-year filing mandate in its notice to potential excess proceeds claimants as part of its policy to finalize the sales of properties subject to tax liens and the distribution of excess proceeds from those sales. The County’s standardized notice thus includes clear and specific instructions reflecting Section 4675’s one-year statutory deadline:

“Please note that your claim must be filed within one year of the date the deed of the purchaser was recorded (shown above). By law, we cannot accept claims after one year from this recording date.”

¹ All citations are to the California Revenue and Taxation Code.

(Second Request for Judicial Notice by Petitioner Perris Business Park, LLC, Item 8 [emphasis added].) The County provided this same, standardized notice that it “cannot accept claims after one year” for each of the 119 parcels that comprise the Parcels.

Further, in granting the City of Perris’ untimely claim to the Parcels’ excess proceeds, Riverside County again acknowledged that it would normally deny untimely claims, but claimed to be unaware of any other excess proceeds claim:

“Normally we recommend denial of all claims beyond the statutory one year claim period. Although the above mentioned claims [by the City of Perris] were received a few weeks late, the Tax Collector is recommending approval since there were no other claimants. In fact no other potential claimants were identified. Were there potential claimants our recommendation would not necessarily be the same.”

(Submittal to the Board of Supervisors County of Riverside, State of California, submitted in November.) It is thus clear that even Riverside County realized and acknowledged that it was violating its statutory duty, and that it would not have approved the City of Perris’ claim but for the County’s losing Perris Business Park, LLC’s claim for the Parcels’ excess proceeds.

C. THE CITY OF PERRIS FAILS TO PROVIDE AUTHORITY FOR RIVERSIDE COUNTY TO APPROVE ITS UNTIMELY CLAIM OVER A TIMELY CLAIM

Nor does the City, in either the legal proceeding or its current submission to the County, provide any authority for the County to approve an untimely claim over a timely submitted claim despite Section 4675’s explicit claims deadline of “any time prior to the expiration of one year following the recordation of the tax collector’s deed to the purchaser.” (Revenue and Taxation Code §4675.) This explicit statutory limitation of the filing time period is set forth in plain language and must be construed as such, rather than over-interpreted:

“When construing a statute, we must ‘ascertain the intent of the Legislature so as to effectuate the purpose of the law.’ [Citation omitted] The words of the statute are the starting point. ‘Words used in a statute ... should be given the meaning they bear in ordinary use. [Citations.] If the language is clear and unambiguous there is no need for construction, nor is it necessary to resort to indicia of the intent of the Legislature....’ [Citation omitted]

(*Azadozy v. Nikoghosian* (2005) 128 Cal.App.4th 1369, 1373 [emphasis added].)

Despite Section 4675’s explicit one-year deadline to file a claim for excess proceeds, the City of Perris argues that it matters not that it filed an untimely claim because the one-year deadline is only “directory” rather than “mandatory.” Setting aside the City’s convoluted interpretation of Section 4675’s explicit statutory requirement that a claim be submitted “prior to the expiration of one year,” the City’s dissertation on directory versus mandatory language misses the point; the County failed, and admits that it failed, to consider Perris Business Park,

LLC's timely submitted claim in violation of Section 4675. (Revenue & Taxation Code §4675.) Further, the City's own cited authority acknowledges that

"Whether the terms of a statute which provides that a particular act shall be done within or at or before a specified time are to be construed as mandatory or merely directory, in the absence of an express provision of law declaring them to be one or the other, must be determined from the terms of the statute construed as a whole, from the nature and character of the act to be done, and from the consequences which would follow the doing or failure to do the particular act at the required time."

(*East Bay Municipal Utility District v. Garrison* (1923) 191 Cal. 680, 686 [emphasis added].) Therefore, the City's convoluted position that the explicit one-year limitation for presenting an excess proceeds claim "is likely directory as there is no contrary intent expressed that it should be mandatory" is therefore suspect and contradicts the plain language of the statute.

Nor is the City of Perris' authority stating that the presentation of tort claims to a public entity "are not considered jurisdictional and may be waived by the local governmental entity" analogous to the County's failure to follow the Revenue and Taxation Code. Despite the City's attempts to justify the County's actions in granting the City's untimely claim, the County itself acknowledged that it lost the timely filed claim of Perris Business Park, LLC, acknowledged that claims must be filed within the one year statutory deadline, and acknowledge that the County normally denies claims beyond the statutory one year claim period. The point, therefore, despite the City of Perris' attempt to misdirect attention from Riverside County's failure to perform its requisite duties, is that Riverside County failed to review Perris Business Park, LLC's timely claim and failed to follow Revenue and Taxation Code section 4675.

D. THE CITY OF PERRIS' ARGUMENT THAT THEIR CLAIM PREVAILS DUE TO PRIORITY FAILS BECAUSE A TIMELY CLAIM IS REQUIRED

The City of Perris, in an attempt to deflect attention from its untimely claim, argues that Section 4675(e) provides that the City of Perris is entitled to the Parcels' excess proceeds as an interested party and who is a "lienholder of record prior to the recordation of the tax deed to the purchaser in the order of their priority," arguing that the City of Perris has a senior claim to Perris Business Park, LLC. The City of Perris' bootstrapped argument, fails, however, because it again ignores the requirements of Section 4675 that a claim be filed within the requisite one-year period:

"(a) Any party of interest in the property may file with the county a claim for the excess proceeds ... at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

...

(e) 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:

- (1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.
- (2) 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.”

(Revenue and Taxation Code §4675 [emphasis added].)

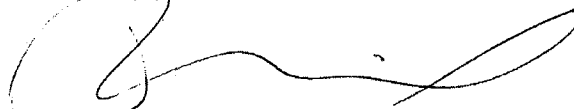
Once again, the City of Perris’ failure to file the pre-requisite timely claim bars them from their argument that their claim has priority. The City of Perris cannot, therefore, argue that it should just be given the excess proceeds regardless of its failure to comply with the law. The statutory amendments to Section 4675 provide that “the taxing agencies shall not take any portion of the excess proceeds which are properly claimed by the parties of interest.”

(*First Corp. v. County of Santa Clara* (1983) 146 Cal.App.3d 841, 846-847.)

V. CONCLUSION

Perris Business Park, LLC therefore respectfully requests that the County of Riverside review its timely filed claim and distribute the excess proceeds to Perris Business Park, LLC but deny the City of Perris’ untimely claim.

Very truly yours,



TANYA D. S. HEHIR
of COVINGTON & CROWE, LLP

TDSH/mt

cc: Client
Dale A. Gardner, Dep. County Counsel (e-mail only)

COVINGTON & CROWE LLP

FRANK J. LIZARRAGA, JR.
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MAURICE G. COVINGTON
(1909-1997)

HAROLD A. BAILIN
(1930-1988)

GEORGE W. PORTER
(1930-2008)

FACSIMILE TRANSMISSION

DATE: March 8, 2010

TO:

NAME	FAX#	PHONE#
Don Kent Riverside County Treasurer	(951) 955-3906	

FROM: Tanya D. S. Hehir, Esq.

RE: Tax Sale No. 171, Items 53-61, 82-139, 174-191 and 210-243 (Parcels)

CLIENT/MATTER:	CLIENT NAME: Perris Business Park MATTER NAME:	No. of Pages, Incl. Cover: 8
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TX Result Report

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 TC: 103961

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Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX,
 MIX: Mixed Original TX, CALL: Manual TX, CSRC: CSRC, FWD: Forward, PC: PC-Fax,
 BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX,
 RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax,
 I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,
 TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,
 Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full,
 LOVR: Receiving length Over, POWER: Receiving page Over, FIL: File Error,
 DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.

COVINGTON & CROWE LLP

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DATE: March 8, 2010

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	Don Kent Riverside County Treasurer	(951) 955-3906	

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CLIENT/MATTER:	CLIENT NAME: Perris Business Park MATTER NAME:	No. of Pages, Incl. Cover: 8
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CLAIM FOR EXCESS PROCEEDS FROM THE SALE OF TAX-DEFAULTED PROPERTY
(SEE REVERSE SIDE FOR FURTHER INSTRUCTIONS)

To: Paul McDonnell, Treasurer and Tax Collector

Re: Claim for Excess Proceeds

TQ 17 Item Assessment No.:

Assessee: Perris Business Park

Situs: NONE

Date Sold: March 21, 2005

Date Deed to Purchaser Recorded: April 22, 2005

Final Date to Submit Claim: April 26, 2006

I/We, pursuant to Revenue and Taxation Code Section 4675, hereby claim excess proceeds in the amount of \$82,409.68 from the sale of the above mentioned real property. I/We were the lienholder(s), property owner(s) [check in one box] at the time of the sale of the property as is evidenced by Riverside County Recorder's Document No. _____; recorded on _____. A copy of this document is attached hereto. I/We are the rightful claimants by virtue of the attached assignment of interest. I/We have listed below and attached hereto each item of documentation supporting the claim submitted.

NOTE: YOUR CLAIM WILL NOT BE CONSIDERED UNLESS THE DOCUMENTATION IS ATTACHED.

If the property is held in Joint Tenancy, the taxsale process has severed this Joint Tenancy, and all Joint Tentants will have to sign the claim unless the claimant submits proof that he or she is entitled to the full amount of the claim, the claimant may only receive his or her respective portion of the claim.

I/We affirm under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of June, 2006 at Orange County, California
County, State

Anthony R Taylor
Signature of Claimant

Signature of Claimant

Anthony R. Taylor
Print Name

Print Name

18881 Van Karman Ave, Suite 400
Street Address

Street Address

Irvine, CA 92612
City, State, Zip

City, State, Zip

(949) 223-1170 ext. 227
Phone Number

Phone Number



**ALESHIRE &
WYNDER, LLP**
ATTORNEYS AT LAW
www.awattorneys.com

18881 Von Karman Ave.
Suite 400
Irvine, CA 92612
Phone 949.223.1170
Fax 949.223.1180

June 27, 2006

**SENDER'S E-MAIL:
ATAYLOR@AWATTORNEYS.COM**

Mr. Paul McDonnell
RIVERSIDE COUNTY TREASURER
P.O. Box 12005
Riverside, CA 92502-2205

Re: City of Perris: CFD 88-3, Perris Business Park
Claim For Excess Tax Sale Proceeds (TC 171)

Dear Mr. McDonnell:

Our office serves as the City Attorneys' Office for the City of Perris (the "City"). We have recently been informed that the consultant hired by the City failed to timely submit a "Claim For Excess Proceeds From The Sale Of The Tax-Defaulted Property" (the "Claim") on the City's behalf for approximately 190 parcels that were sold at a County tax sale in March of 2005.

A list of the specific parcels by APN number that have excess proceeds according to the County is enclosed for your review (the "Parcels"). (See June 8, 2006 e-mail from Colleen Espino, Accounting Tech 1.)

The City did not have any knowledge that its consultant failed to timely submit the Claim to the County until well after the deadline to do so had passed. We understand that the deadline for the submittal of this Claim was April 24, 2006.

We further understand that this matter has been discussed with the County Counsel in light of these unusual facts so that the City is not deprived of the excess tax sale proceeds that it would have otherwise received if its consultant timely submitted the Claim.

Our office has also discussed this matter and corresponded with Ms. Colleen Espino of the County who has assisted us over the past few weeks in presenting the enclosed Claim for your consideration. We appreciate her assistance and the County's attention to this matter.

Based on our calculations, the City is entitled to \$82,409.68 in excess tax sale proceeds for the Parcels. Therefore, I have enclosed the claim form in that amount that was recently provided to me by Ms. Espino.



Mr. Paul McDonnell
June 27, 2006
Page 2

Please do not hesitate to contact me directly should you have any questions about this matter or need any further information. Thank you for your time and consideration.

Sincerely,

ALESHIRE & WYNDER, LLP

A handwritten signature in black ink that reads "Anthony R. Taylor". The signature is written in a cursive, flowing style.

Anthony R. Taylor, Esq.

Enclosure:

cc: Mr. Hector Apodaca, City Manager
Mr. Ron Carr, Finance Director
Eric Dunn, Esq., City Attorney
Ms. Colleen Espino, Riverside County Treasurer - Tax Collector

From: "Eric Dunn" <edunn@awattorneys.com>
To: "Colleen Espino" <Cespino@co.riverside.ca.us>
Date: 6/16/2006 8:59:41 AM
Subject: RE: Perris Business Park

Colleen: I'm not in the office today, but as of yesterday I had not received a claim form. Should I expect it soon? Thank you.

*mailed
6/18/06*

-----Original Message-----

From: Colleen Espino [mailto:Cespino@co.riverside.ca.us]
Sent: Thursday, June 08, 2006 2:08 PM
To: Eric Dunn
Subject: Perris Business Park

Eric,

Enclosed is the list of parcels owned by Perris Business Park that sold at our tax sale. These parcels had a CFD 88-3 on each. The assessment number and the excess proceeds amount available for each parcel. I am mailing you a claim form, attach this list, copy of recorded levy and updated statement of monies owed on each parcel at time of March 2005 tax sale when you return the claim. Any questions, please contact me at the number listed below.

Sincerely,

Colleen Espino

Item	Assessment #	E.P. available
53	303272001-6	\$2,911.73
54	303272002-7	\$2,007.47
55	303272003-8	\$2,007.47
56	303272004-9	\$2,007.47
57	303272005-0	\$2,007.47
58	303272006-1	\$2,007.47
59	303272007-2	\$2,007.47
60	303272008-3	\$2,007.47
61	303272009-4	\$2,007.47
82	303276001-8	\$303.82
83	303276002-9	\$232.68
84	303276003-0	\$232.68
85	303276004-1	\$232.68
86	303276005-2	\$232.68
87	303276006-3	\$232.68
88	303276007-4	\$232.68
89	303276008-5	\$232.68
90	303276009-6	\$232.68
91	303276010-6	\$303.82
92	303276011-7	\$303.82
93	303276012-8	\$232.68
94	303276013-9	\$232.68
95	303276014-0	\$232.68
96	303276015-1	\$242.58
97	303276016-2	\$232.68
98	303276017-3	\$232.68

99	303276018-4	\$232.68
100	303276019-5	\$232.68
101	303276020-5	\$303.82
102	303277001-1	\$381.13
103	303277002-2	\$303.77
104	303277003-3	\$303.77
105	303277004-4	\$303.77
106	303277005-5	\$303.77
107	303277006-6	\$303.77
108	303277007-7	\$303.77
109	303277008-8	\$303.77
110	303277009-9	\$303.77
111	303277010-9	\$611.44
112	303277011-0	\$611.44
113	303277012-1	\$303.77
114	303277013-2	\$303.77
115	303277014-3	\$303.77
116	303277015-4	\$303.77
117	303277016-5	\$303.77
118	303277017-6	\$303.77
119	303277018-7	\$303.77
120	303277019-8	\$303.77
121	303277020-8	\$381.13
122	303281001-4	\$1,118.83
123	303281002-5	\$679.57
124	303281003-6	\$679.57
125	303281004-7	\$679.57
126	303281005-8	\$679.57
127	303281006-9	\$679.57
128	303281007-0	\$679.57
129	303281008-1	\$679.57
130	303281009-2	\$679.57
131	303281010-2	\$679.57
132	303281011-3	\$679.57
133	303281012-4	\$679.57
134	303281013-5	\$679.57
135	303281014-6	\$679.57
136	303281015-7	\$679.57
137	303281016-8	\$679.57
138	303281017-9	\$679.57
139	303281018-0	\$679.57
174	303283001-0	\$471.83
175	303283002-1	\$387.16
176	303283003-2	\$387.16
177	303283004-3	\$387.16
178	303283005-4	\$387.16
179	303283006-5	\$387.16
180	303283007-6	\$387.16
181	303283008-7	\$387.16
182	303283009-8	\$808.71
183	303283010-8	\$724.04
184	303283011-9	\$387.16
185	303283012-0	\$387.16
186	303283013-1	\$387.16
187	303283014-2	\$387.16
188	303283015-3	\$387.16

189	303283016-4	\$387.16
190	303283017-5	\$387.16
191	303283018-6	\$471.83
210	303285001-6	\$90.05
211	303285002-7	\$36.13
212	303285003-8	\$36.13
213	303285004-9	\$36.13
214	303285005-0	\$36.13
215	303285006-1	\$36.13
216	303285007-2	\$36.13
217	303285008-3	\$36.13
218	303285009-4	\$36.13
219	303285010-4	\$90.05
220	303285011-5	\$90.05
221	303285012-6	\$36.13
222	303285013-7	\$36.13
223	303285014-8	\$36.13
224	303285015-9	\$36.13
225	303285016-0	\$36.13
226	303285017-1	\$36.13
227	303285018-2	\$36.13
228	303285019-3	\$36.13
229	303285020-3	\$90.05
230	303286001-9	\$2,551.25
231	303286002-0	\$2,086.31
232	303286003-1	\$2,086.31
233	303286004-2	\$2,086.31
234	303286005-3	\$2,086.31
235	303286006-4	\$2,086.31
236	303286007-5	\$2,086.31
237	303286008-6	\$2,086.31
238	303286009-7	\$2,086.31
239	303286010-7	\$2,086.31
240	303286011-8	\$2,086.31
241	303286012-9	\$2,086.31
242	303286013-0	\$2,086.31
243	303286014-1	\$2,551.25

Colleen Espino
Accounting Tech 1
County of Riverside Treasurer Tax Collector
<http://www.countytreasurer.org>
Email: CEspino@co.riverside.ca.us
Phone: 951-955-3842
Fax: 951-955-3990

Anthony R. Taylor

From: Eric Dunn
Sent: Tuesday, June 13, 2006 11:32 AM
To: Anthony R. Taylor
Subject: FW: Perris Business Park

-----Original Message-----

From: Colleen Espino [mailto:Cespino@co.riverside.ca.us]
Sent: Thursday, June 08, 2006 2:08 PM
To: Eric Dunn
Subject: Perris Business Park

Eric,

Enclosed is the list of parcels owned by Perris Business Park that sold at our tax sale. These parcels had a CFD 88-3 on each. The assessment number and the excess proceeds amount available for each parcel.

I am mailing you a claim form, attach this list, copy of recorded levy and updated statement of monies owed on each parcel at time of March 2005 tax sale when you return the claim. Any questions, please contact me at the number listed below.

Sincerely,

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88	303276007-4	\$232.68
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111	303277010-9	\$611.44
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115	303277014-3	\$303.77
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217	303285008-3	\$36.13
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232	303286003-1	\$2,086.31
233	303286004-2	\$2,086.31
234	303286005-3	\$2,086.31
235	303286006-4	\$2,086.31
236	303286007-5	\$2,086.31
237	303286008-6	\$2,086.31
238	303286009-7	\$2,086.31
239	303286010-7	\$2,086.31
240	303286011-8	\$2,086.31
241	303286012-9	\$2,086.31
242	303286013-0	\$2,086.31
243	303286014-1	\$2,551.25

Colleen Espino
Accounting Tech 1
County of Riverside Treasurer Tax Collector <http://www.countytreasurer.org>
Email: CEspino@co.riverside.ca.us
Phone: 951-955-3842
Fax: 951-955-3990

Anthony R. Taylor

From: Eric Dunn
Sent: Tuesday, June 13, 2006 11:32 AM
To: Anthony R. Taylor
Subject: FW: Perris Business Park

-----Original Message-----

From: Colleen Espino [mailto:Cespino@co.riverside.ca.us]
Sent: Thursday, June 08, 2006 4:39 PM
To: Eric Dunn
Subject: Perris Business Park

Eric,

When filing the claim please write a letter indicating that the responsibility for filing these claims were placed in another company's hands and the City of Perris was unaware that the claim for excess proceeds were not submitted to the County by the deadline date of April 24, 2006.

Colleen Espino
Accounting Tech 1
County of Riverside Treasurer Tax Collector <http://www.countytreasurer.org>
Email: CEspino@co.riverside.ca.us
Phone: 951-955-3842
Fax: 951-955-3990

February 01, 2007

Aleshire & Wynder, LLp
Attn: Anthony R. Taylor, Esq
Re: City of Perris
18881 Von Karman Ave
Suite 400
Irvine, CA 92612

Re: Apn: 303272001-6 thru 303286014-1
TC 171 Item 53-243
Date of Sale: March 21, 2005

Dear Anthony R. Taylor, Esq:

This office is in receipt of your claim for excess proceeds from the above-mentioned tax sale. The documentation you have provided is insufficient to establish your claim.

Please submit the necessary proof to establish your right to claim the excess proceeds. The document(s) listed below may assist the Tax Collector in making the determination.

- | | |
|--|---|
| <input type="checkbox"/> Notarized Affidavit for Collection of Personal Property under California Probate Code 13100 | <input type="checkbox"/> Copy of Marriage Certificate for |
| <input type="checkbox"/> Notarized Statement of different/misspelled name | <input type="checkbox"/> Original Note/Payment Book |
| <input type="checkbox"/> Notarized Statement Giving Rights to Collect/Claim on behalf of | <input checked="" type="checkbox"/> Updated Statement of Monies Owed (as of dated of tax sale) |
| <input type="checkbox"/> Copy of Trust/Will (Complete) for | <input type="checkbox"/> Articles of Incorporation (if applicable Statement by Domestic Stock) |
| <input type="checkbox"/> Certified Death Certificate for | <input type="checkbox"/> Court Order Appointing Administrator |
| <input type="checkbox"/> Copy of Birth Certificates for | <input type="checkbox"/> Deed (Quitclaim/Grant etc...) |
| | <input type="checkbox"/> Other |

If your documentation is not received within 30 days, (March 1, 2007) your claim will be denied.

If you should have any questions, please contact me at the number listed below.

Sincerely,

Desiree Taylor

Desiree Taylor
Tax Enforcement Unit
(951) 955-3842
(951) 955-3990 Fax



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WYNDER, LLP**
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Fax 949.223.1180

FACSIMILE COVER SHEET

Date: February 28, 2007 **Time:** 10:57:56 AM
File Name: Excess Proceeds Claim by City of Perris **File No.:** 01006.008

To Ms. Desiree Taylor, Tax Enforcement Unit **Fax No.** **Telephone No.**
(951) 955-3990

From: Anthony R. Taylor, Esq.

TOTAL NUMBER OF PAGES INCLUDING THIS FORM IS: 5

Message: Enclosed are the "Updated Statement of Monies Owed as of the date of the tax sale" calculations you requested, as prepared by MuniFinancial, for the City's excess proceeds claim in response to your February 1, 2007 letter. Should you have any questions, please call me. Thank you, Anthony

ORIGINAL WILL:

- BE SENT BY MAIL
- BE SENT BY FEDEX/OVERNIGHT COURIER
- BE SENT BY MESSENGER
- NOT BE SENT
- BE SENT BY E-MAIL

If all pages are not received, please call Linda M. Yarvis at (949) 223-1170.

THIS COVER SHEET AND ANY DOCUMENTS ACCOMPANYING IT ARE INTENDED FOR THE INDIVIDUAL OR ENTITY SET FORTH AS THE ADDRESSEE, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE SO THAT ARRANGEMENTS CAN BE MADE FOR RETURNING THE ORIGINAL MESSAGE TO US. THANK YOU.

01006/0008/48811.01

*** TX REPORT ***

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RECIPIENT ADDRESS 042#01006#0008#19519553990#
DESTINATION ID
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FACSIMILE COVER SHEET

Date: February 28, 2007 Time: 10:57:56 AM
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(951) 955-3990

From: Anthony R. Taylor, Esq.

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ORIGINAL WILL:

- BE SENT BY MAIL
- BE SENT BY MESSENGER
- BE SENT BY E-MAIL
- BE SENT BY FEDEX/OVERNIGHT COURIER
- NOT BE SENT

If all pages are not received, please call Linda M. Yarvis at (949) 223-1170.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <input checked="" type="checkbox"/> Recording requested by and return to: WILLIAM J. CAPLAN (SBN 81642) Rutan & Tucker, LLP 611 Anton Blvd, Ste 1400 Costa Mesa, CA 92626 ATTORNEY FOR (name): Plaintiff		TELEPHONE NO.: (714) 641-5100	FOR COURT USE ONLY 448748 ✓ RECEIVED FOR RECORD AT 8:00 O'CLOCK NOV 25 1996 Recorded in Official Records of Riverside County, California Recorder Fees: <u>0</u>
NAME OF COURT: Riverside County Superior Court STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside CA 92501 BRANCH NAME:			
PLAINTIFF: City of Perris, as the Representative of the Bondholders for Community Facilities District No. 88-3 DEFENDANT: Perris Business Park, and Does 1 through 200, inclusive,			
NOTICE OF LEVY under Writ of <input checked="" type="checkbox"/> Execution (Money Judgment) <input checked="" type="checkbox"/> Sale		LEVYING OFFICER (Name and Address): REVERSLIDE COUNTY SHERIFF COURT SERVICES 30755-A AVO ROAD MURRIETTA, CA. 92563	
TO THE PERSON NOTIFIED (name): PERRIS BUSINESS PARK Attn: Edward J. Geoppinger, 5280 Stonewood Drive, Riverside CA 92506		LEVYING OFFICER FILE NO.:	COURT CASE NO.: 276507

1. The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:
- a. judgment debtor (name): **PERRIS BUSINESS PARK**
 - b. the property to be levied upon is described
 - in the accompanying writ of possession or writ of sale.
 - as follows:

2. The amount necessary to satisfy the judgment creditor's judgment is (specify total amount due under the writ less partial satisfactions plus daily interest from the date of the writ until the date of levy):
 \$

3. You are notified as
- a. a judgment debtor
 - b. a person other than the judgment debtor (state capacity in which person is notified):

(Read information for Judgment Debtor or information for Person Other Than Judgment Debtor on reverse.)

Notice of Levy was

- mailed on (date):
- delivered on (date):
- posted on (date):
- filed on (date):
- recorded on (date): **11/25/96**

Signed by:

[Signature]

Levying Officer Registered process server

(Complete on reverse)

Form Approved by the
 Judicial Council of California
 7/1/91 Rev. January 1, 1995

NOTICE OF LEVY
 (Enforcement of Judgment)

CDP 006.540

CITY of Perris v. Perris Business Park

LEVYING OFFICER FILE NO.:

COURT CASE NO.:

276507

- INFORMATION FOR JUDGMENT DEBTOR -

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exception for your property. A list of exemptions is attached. If you wish to claim an exemption for personal property, you must do so within 10 days after this notice was delivered to you or 15 days after this notice was mailed to you by filing a claim of exemption and one copy with the levying officer as provided in section 703.020 of the Code of Civil Procedure. If you do not claim an exemption you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.
3. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
4. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
5. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
6. All sales at an execution sale are final; there is no right of redemption.

- INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR -

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. You must complete the accompanying Memorandum of Garnishes.
3. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property pursuant to sections 720.010 - 720.020 of the Code of Civil Procedure.
4. Make checks payable to the levying officer.

City of Perris v. Perris Business Park

CASE NUMBER:
276507

- Items continued from the first page -

Additional judgment debtor (name and last known address):

7. Notice of sale has been requested by (name and address):

City of Perris as the Rep. of Bond-
holders of Comm. Facilities #88-3
611 Anton Blvd. #1400
Costa Mesa CA 92626

8. Joint debtor was declared bound by the judgment (CCP 980-004)

a. on (date):

b. name and address of joint debtor:

a. on (date):

b. name and address of joint debtor:

c. additional costs against certain joint debtors (itemize):

9. (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. Possession of real property. The complaint was filed on (date):

(Check (1) or (2)):

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.

(a) \$ _____ was the daily rental value on the date the complaint was filed.

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. Possession of personal property

If delivery cannot be had, then for the value (itemize in (c)) specified in the judgment or supplemental order.

c. Sale of personal property

d. Sale of real property

e. Description of property: SEE ATTACHMENT A.

- NOTICE TO PERSON SERVED -

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying Notice of Levy.

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

↳ A Claim of Right to Possession form accompanies this writ (unless the summons was served in compliance with CCP 415.46).

ATTACHMENT A

ASSESSOR'S PARCEL NUMBER

- 303-272-001-6 ✓
- 303-272-002-7 ✓
- 303-272-003-8 ✓
- 303-272-004-9 ✓
- 303-272-005-0 ✓
- 303-272-006-1 ✓
- 303-272-007-2 ✓
- 303-272-008-3 ✓
- 303-272-009-4 ✓
- 303-273-001-9 ✓
- 303-273-002-0 ✓
- 303-273-003-1 ✓
- 303-273-004-2 ✓
- 303-273-005-3 ✓
- 303-273-006-4 ✓
- 303-273-007-5 ✓
- 303-273-008-6 ✓
- 303-273-009-7 ✓
- 303-273-010-7 ✓
- 303-273-011-8 ✓

303-273-012-9 ✓

303-273-013-0 ✓

303-273-014-1 ✓

303-273-015-2 ✓

303-273-016-3 ✓

303-273-017-4 ✓

303-273-018-5 ✓

303-273-019-6 ✓

303-273-020-6 ✓

303-275-036-7

303-276-001-8 ✓

303-276-002-9 ✓

303-276-003-0 ✓

303-276-004-1 ✓

303-276-005-2 ✓

303-276-006-3 ✓

303-276-007-4 ✓

303-276-008-5 ✓

303-276-009-6 ✓

303-276-010-6 ✓

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- 303-281-005-8 ✓
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- 303-286-010-7 ✓
- 303-286-011-8 ✓
- 303-286-012-9 ✓
- 303-286-013-0 ✓
- 303-286-014-1 ✓
- 303-292-001-8
- 303-292-002-9
- 303-292-003-0
- 303-293-0020-2

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NOT on our
assesseel list
NOT P. B. P.

LOTS 136 THROUGH 176 INCLUSIVE AND LOTS 178 THROUGH 358 INCLUSIVE OF TRACT NO. 4269, IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 76 PAGES 9 THROUGH 14, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.



**ALESHIRE &
WYNDER, LLP**
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Sacramento
980 9th St., 16th Floor
Sacramento, CA 95814
P 916.449-9690 • F 916.449.9689

December 16, 2009

Don Kent, Riverside County Treasurer/Tax Collector
Riverside County Treasurer
P.O. Box 12005
Riverside, CA 92502-2205

Re: Tax Sale No. 171, Items 53-61, 82-139, 174-191 and 210-243
Last Assessed to: Perris Business Park

Dear Mr. Kent:

The City of Perris submits the following letter in support of its Claim for Excess Proceeds as to the parcels listed above and in Exhibit 1.

I. FACTUAL HISTORY.

On March 21, 2005, the County of Riverside ("County") sold at a public auction sale approximately 190 contiguous parcels ("Parcels"), which were located within the City of Perris ("City"). (See, Exhibit 1, List of Assessor's Parcel Numbers of Parcels.) The excess proceeds totaled eighty-two thousand four hundred and nine dollars and sixty-eight cents (\$82,409.68).

The County issued a notice of the right to claim excess proceeds on June 14, 2004 to parties of interest, including the City and Perris Business Park, LLC ("Perris Business Park"). Unbeknownst to the City, the City's consultant failed to file a claim by the statutory deadline, which was April 24, 2006.

As soon as the City discovered the Consultant's failure to file a timely claim, the City began a dialogue with the County in order to determine how to proceed. (See, Exhibit 2, Communications between City and County regarding claim for excess proceeds, Bates stamped pp.7-22). The City contacted an employee of the Riverside County Treasurer-Tax Collector's Office, who mailed the City a claim form on June 8, 2006, even though the deadline had already passed. (See, Exhibit 2, Email from Colleen Espino to Eric Dunn dated June 8, 2006, Bates stamped pp. 10-12).



Don Kent, Riverside County Treasurer/Tax
Collector
December 16, 2009
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On June 8, 2006, County staff sent City Attorney Eric Dunn an e-mail that, in pertinent part, stated:

“Enclosed is a list of the parcels owned by Perris Business Park that sold at our tax sale. These parcels had a CFD 88-3 on each. The assessment number and the excess proceeds available for each parcel. I am mailing you a claim form, attach this list, copy of recorded levy and updated statement of monies owed on each parcel at time of March 2005 tax sale when you return the claim.”

(Id.).

In a subsequent e-mail on June 8, 2006, County staff told Mr. Dunn:

“When filing the claims please write a letter indicating that the responsibility for filing these claims were placed in another company’s hands and the City of Perris was unaware that the claim for excess proceeds were not submitted to the County by the deadline date of April 24, 2006.”

(Id., Exhibit 2, Email from Colleen Espino to Eric Dunn dated June 8, 2006, Bates stamped p. 16).

In reliance on County staff’s advice, the City immediately wrote a letter to the County describing its consultant’s failure to file a timely claim form, the circumstances surrounding that failure, i.e., that the City did not have any knowledge of it until after the fact, and attaching a claim form with specific APN parcel numbers, pursuant to County staff’s instructions. *(Id., Exhibit 2, Letter from Anthony Taylor to Riverside County Treasurer, dated June 27, 2006, Bates stamped pp. 8-12).* The City submitted a claim for excess proceeds on June 27, 2006. *(Id., Exhibit 2, Claim for Excess Proceeds, Bates stamped p. 7.)*

At the public hearing regarding the distribution of excess proceeds on December 9, 2008, the County was aware of just the City’s claim. (See, Exhibit 3, Submittal to the Board of Supervisors and Transcription of Proceedings Before the Board of Supervisors, Bates stamped, pp. 1-6). Therefore, the Treasurer-Tax Collector recommended that the Board of Supervisors grant the City’s claim for excess proceeds. *(Id., Exhibit 3, Submittal to the Board of Supervisors, p.5).* The County Board of Supervisors exercised its legislative discretion and unanimously voted to accept the Treasurer Tax-Collector’s recommendation and the City was



Don Kent, Riverside County Treasurer/Tax
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December 16, 2009
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awarded excess proceeds in the amount of \$82,409.68. (*Id.*, Exhibit 3, Transcription of Proceedings, Bates stamped pp. 1-2.)

Perris Business Park filed a Petition for Writ of Mandate seeking an order setting aside the distribution of the excess proceeds to City. The Court granted Perris Business Park's writ and remanded the issue to the Riverside County Board of Supervisors for consideration.

II. THE COUNTY HAS DISCRETION TO CONSIDER AND ACCEPT THE CITY OF PERRIS'S LATE FILED CLAIM.

A. The County Has Discretion To Consider The City's Late Claim Because The Time Provision For Submitting Claims For Excess Proceeds Is Directory And Not Mandatory.

Revenue and Taxation Code § 4675 states in relevant part:

“(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.”

The one-year statutory requirement in Revenue and Tax Code § 4675 is likely *directory* as opposed to mandatory, meaning that if the agency chooses not to follow the time provision, such action will not have the effect of invalidating the governmental action to which the procedural requirement relates. (*Edwards v. Steele* (1979) 25 Cal.3d 406, 410).

Generally, provisions relating to the time in which action must be done are presumed directory in nature, unless a contrary intent is expressed. (*Pulcifer v. County of Alameda* (1946) 29 Cal. 2d 258, 262; *Edwards v. Steele* (1979) 25 Cal. 3d 406, 410). A provision is directory where it fails to provide consequences or penalties for failing to strictly comply with the provision. (*Edwards, supra*, 25 Cal. 3d at 410).

When a statute specifies the time at or within which an act is to be done, it is usually held to be directory, unless time is of the essence of the thing to be done, or the language of the act contains negative words or shows that the designation of the time was intended as a limitation of power, authority or right. (*People ex rel. Board of Supervisors v. Board of Supervisors* (1867) 33 Cal. 487, 492.)



Don Kent, Riverside County Treasurer/Tax
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In order to determine whether a particular statutory provision as to time is mandatory or directory, the court, as in all cases of statutory construction and interpretation, must ascertain the legislative intent. In the absence of express language, the intent must be gathered from the terms of the statute construed as a whole, from the nature and character of the act to be done, and from the consequences which would follow the doing or failure to do the particular act at the required time. (*East Bay Municipal U. Dist. v. Garrison* (1923) 191 Cal. 680, 686.) When the object is to serve some public purpose, the provision may be held directory or mandatory as will best accomplish that purpose (*Calaveras County v. Brockway* (1866) 30 Cal. 325, 343), and the courts will look to see whether the provision is of the essence of the thing to be accomplished. (*Pulcifer v. County of Alameda* (1946) 29 Cal. 2d 258, 262.)

Here, the one-year statutory requirement in Revenue and Tax Code § 4675 is likely directory as there is no contrary intent expressed that it should be mandatory. As described in *Edwards*, the Legislature has failed to provide any consequences or penalties for failing to strictly comply with the provision. Thus, there is little question that the time provision in Revenue and Tax Code § 4675 is directory. As such, the County has the discretionary authority to consider the City's claim for excess proceeds and ultimately distribute the excess proceeds to the City as it did on December 9, 2008.

B. The County Has Discretion To Consider The City's Late Claim Because The County May Waive Non-Jurisdictional Statutory Claims Presentment Requirements.

The County has the authority to waive the claim presentment requirements and consider the City's late claim.

Statutory claims presentment requirements are not considered jurisdictional and may be waived by the local government entity. (*McCandless v. City of Los Angeles* (1935) 10 Cal. App. 2d 407, 413 [city's argument made first time on appeal that plaintiff failed to make a perfect presentment of her claim as required by procedures enumerated in home rule city charter provisions was waived and lawsuit could continue].)

Here, the issue involves a statute providing for claims against the County for excess tax proceeds by interested parties and reflects that: "[a]ny party of interest . . . may file with the county a claim for excess proceeds . . . any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser. [] the claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's



Don Kent, Riverside County Treasurer/Tax
Collector

December 16, 2009

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rights to all or any portion of the excess proceeds.” (Rev. & Tax Code § 4675). Accordingly, this statute sets forth requirements to perfect a claim for excess tax proceeds by interested parties for excess tax proceeds held by the County. As such they are not considered jurisdictional and they may be waived.

Furthermore, under California law, a statutory limitations period creates a personal defense which may be waived by the benefited party. (*Mitchell v. County Sanitation Dist. No. One of Los Angeles* (1957) 150 Cal.App.2d. 366, 371; *Glassell v. Glassell* (1905) 147 Cal. 510, 512). Therefore, expiration of the one-year limitation period on the filing of a claim from the City for excess tax proceeds is a personal defense that belongs solely to the County; and one which the County may waive under California law. (*See, generally*, 3 Witkin, California Procedure, Actions § 440 p. 560 (5th ed. 2008); *see, Mitchell v. County Sanitation Dist. No. One of Los Angeles*, 150 Cal. App. 2d. at 371).

Moreover, because the defense is personal to the party benefited by the limitations period, a third person not in privity with that person may not lawfully complain of a failure to set it up, even though the third person is adversely affected. (*Goldberg, Bowen Co. v. Demick*, (1926) 77 Cal. App. 535, 540, 542 [third party cannot raise expiration of the limitations period where person benefited waived the issue, even if third party is adversely affected by the waiver].)

In *Goldberg*, plaintiffs sued Defendant Blood and other defendants to obtain a decree establishing that certain mining claims had been fraudulently conveyed by Blood to other defendants to avoid execution by Plaintiff of a previous judgment against Blood. (*Id.* at 537-538.) Defendant Blood defaulted and certain other defendants attempted to raise a statute of limitations defense on behalf of Defendant Blood. (*Id.* at 539.) However, the Court held that the statute of limitations is a plea personal to the debtor which he may use or waive as he pleases. Except in the limited case where parties are in privity with each other, the court held that a third party cannot raise the defense of statute of limitations when the debtor has waived it, even if their interests will be adversely affected by the waiver.

Here, as in *Goldberg*, Perris Business Park is an affected third party whose interests could be affected by the County’s waiver of its limitations defense. Nevertheless, Perris Business Park has no legal authority to raise the expiration of the limitations period as to the City’s claim for excess proceeds on behalf of the County because such a defense is a personal defense that belongs solely to the County. The County has waived the defense and accepted the City’s claim despite the expiration of the limitations period. Perris Business Park has no standing to raise the issue that the statute of limitations is a bar to City’s claim for excess proceeds.



Don Kent, Riverside County Treasurer/Tax
Collector
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In addition, under California law, the expiration of the statutory period within which an action must be commenced or claim filed does not extinguish the debtor's obligation to the claimant. Such a debt or obligation to the claimant is not extinguished by the lapse of time. (*Mitchell v. County Sanitation Dist. No. One of Los Angeles*, 150 Cal. App. 2d at 370.) Instead, the limitations period merely bars the claimant's remedy unless the limitations period is waived. (*Id.*) Consequently, the County's obligation to disperse excess tax proceeds to the City as a perfected lien holder survives the expiration of the one-year limitations period. Having waived the limitations period defense, it would be proper for the County to disperse the proceeds to fulfill its obligation to the City.

III. THE CITY IS ENTITLED TO THE EXCESS PROCEEDS.

A. The City's Claim Has Priority Over Perris Business Park's Claim.

As a lienholder of record of the Parcels, the City's claim for excess proceeds receives priority under Revenue and Taxation Code § 4675(e), which states:

"(e) 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:

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

(2) 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."

Perris Business Park is or was a "person with title of record" and pursuant to Revenue and Tax Code § 4675(e), its claim receives *lower* priority to the City's claim. The County must distribute the excess proceeds from the sale of the Parcels in the order set forth above.