

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

100



FROM: County Counsel and Executive Office

SUBMITTAL DATE:
July 31, 2012


SUBJECT: Report on Real Estate Taxes Are Paid (RETAP) Policy, Adoption of Board Policy B-31 RETAP Policy, and Initiation of Amendments to Ordinances 348 and 460 for the Purpose of Implementing Board Policy B-31.

RECOMMENDED MOTION: That the Board of Supervisors:

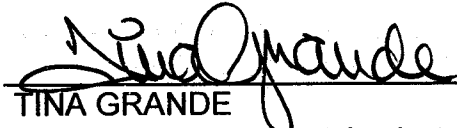
1. Receive and file this report on the Real Estate Taxes Are Paid (RETAP) Policy;
2. Adopt Board Policy B-31 regarding RETAP (Attachment A);
3. Adopt an order initiating amendments to Ordinances 348 and 460 for the purpose of implementing Board Policy B-31; and
4. Direct County Counsel to prepare and process the ordinance amendments, in consultation with the Treasurer-Tax Collector and appropriate Transportation Land Management Agency (TLMA) departments, for the purpose of implementing Board Policy B-31.

Departmental Concurrence

Continued on the next page.



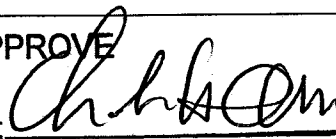
TIFFANY NORTH
Deputy County Counsel, for
Pamela Walls, County Counsel



TINA GRANDE
Principal Management Analyst
Executive Office

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 50,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 50,000	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	12/13

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


C.E.O. RECOMMENDATION: APPROVE
BY: 
County Executive Office Signature Christopher M. Hans

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

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: Ashley
Absent: None
Date: July 31, 2012
xc: Co.Co., E.O., Treasurer, TLMA, Auditor

Kecia Harper-Ihem
 Clerk of the Board
 By: 
 Deputy

BACKGROUND continued: On April 17, 2012, the Board of Supervisors approved Item 3.3, requesting County Counsel, in consultation with the Executive Office and Treasurer-Tax Collector, research, determine and report back on the Board's authority to adopt a Board policy directing the appropriate departments to not receive an application for a land use approval, a subdivision approval, a grading permit or a building permit, if property taxes are not current on the underlying property or properties. The Board's April action was initiated, in part, because of a recent land use application involving a change of zone and subdivision map wherein it was revealed during the public hearing that taxes had not been paid on the underlying property. During the hearing, the propriety of processing an application under these circumstances was raised and discussed.

Representatives from County Counsel, Treasurer-Tax Collector, TLMA and the Executive Office met and discussed the Board's proposal. Research conducted by County Counsel has not revealed any legal authority which would prevent the Board from adopting a policy requiring the payment of real property taxes prior to any land use approval being issued under Ordinance 348 or prior to any subdivision approval under Ordinance 460. Examples of permits under Ordinance 348 include Conditional Use Permits, Plot Plans, Specific Plans, Public Use Permits, General Plan Amendments, WECS permits, and Change of Zones. Ordinance 460 governs all land division approval under the Subdivision Map Act, such as tract maps, parcel maps and lot line adjustments.

As explained below in greater detail, staff recommends modifying the original proposal to require either payment or securitization of property taxes through bonding where allowed by the subdivision map act at different stages in the approval process depending on the ordinance that governs the approval.

Currently, Section 17.2 of Ordinance 460 requires that a land divider provide "Certificates for taxes and special assessments, as prepared by the Tax Collector, and security for unpaid taxes and special assessments, shall be furnished as required by the Subdivision Map Act." This requirement applies to any "land division" under Ordinance 460 (i.e., any parcel map or tract map). This means that prior to recordation, property taxes are either paid or a bond is provided for all taxes and special assessments on most land divisions that fall under Ordinance 460. Prior to the Board's action of April 17, 2012, the Treasurer-Tax Collector's office contacted County Counsel's office regarding the ability to require security bonds for real property taxes imposed on lot line adjustments and condominium maps as a condition of approval. Since this issue ties into the same concern as RETAP, namely securing payment of property taxes, both items were discussed by County Counsel, Treasurer-Tax Collector, TLMA and the Executive Office at their recent meeting. Requiring such security bonding on lot line adjustments and condominium maps will ensure that unpaid taxes and special assessments will be satisfied. The Board has the authority per Government Code sections 66412(d) and 66493(d) to impose this security requirement on lot line adjustments and condominium maps. An amendment to Ordinance 460 would need to be adopted by the Board. If adopted by the Board, all approvals under Ordinance 460 would be required to either pay or provide a securitized bond for taxes or special assessments at recordation. The proposed Board Policy B-31 reflects this requirement.

RE: RETAP Policy, and Initiation of Amendments to Ordinances 348 and 460

Date: July 31, 2012

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Staff recommends that the proposed Policy B-31 (RETAP) require the payment of real property taxes prior to scheduling any hearing for a case seeking an approval under Ordinance 348. This means any case seeking a land use approval under Ordinance 348 shall not be set for hearing if real property taxes are past due. If no hearing is required for the particular case under Ordinance 348 then proof of payment of property taxes shall be required before approval.

In order to fully implement Policy B-31, it may be necessary to amend Ordinance 348, along with Ordinance 460. County Counsel is still evaluating whether amendments to Ordinance 348 may be necessary.

For any ordinance amendment, Board Policy A-67 requires that the Board first adopt an order initiating the amendment. The recommended motion will give County Counsel the authority to begin work on the ordinance amendment to Ordinance 460 and if deemed necessary, Ordinance 348 and return with the amendment for final adoption by the Board. The estimated cost of the amendment is approximately \$50,000. No additional funding is requested at this time.

This Form 11 is in compliance with Board Policy A-67.

**COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject:

REAL ESTATE TAXES ARE PAID (RETAP)

Policy

Number

Page

B-31

1 of 1

Policy:

It is the policy of the Board of Supervisors to require the payment of real property taxes prior to any approval being issued under Ordinance Nos. 348 or 460. Before scheduling any hearing for a case seeking an approval under Ordinance Nos. 348 or 460, County staff shall verify that all real property taxes have been paid. Any case seeking an approval under Ordinance Nos. 348 or 460 shall not be set for hearing if real property taxes are past due. Further, whenever any part of a land division or lot line adjustment being processed under Ordinance No. 460 is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map, parcel map, or lot line adjustment shall not be recorded until the land divider provides a certificate for taxes and special assessments, as prepared by the Tax Collector, and security for unpaid taxes and special assessments, as required by the Subdivision Map Act.

Reference:

Minute Order 3.9 of 7/31/12

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



3.10

On motion of Supervisor Tavaglione, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the recommendation from County Counsel and Executive Office regarding Report on Real Estate Taxes Are Paid (RETAP) Policy; Adopt of Board Policy B-31 regarding RETAP; and Adoption of an Order Initiating an Amendment to Ordinance No. 460 Regulating the Division of Land of the County of Riverside is continued to Tuesday, July 31, 2012 at 9:00 a.m.

Roll Call:

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

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 19, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 19, 2012
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By: *April Decker* Deputy

AGENDA NO.
3.10

xc: Co.Co., E.O., COB

3.9



MEMORANDUM

EXECUTIVE OFFICE, COUNTY OF RIVERSIDE

Jay E. Orr
County Executive Officer

George A. Johnson, Assistant
County Executive Officer

TO: Kecia Harper-Ihem, COB
FROM: George A. Johnson, Assistant CEO
DATE: June 12, 2012
RE: CONTINUANCE

Please continue the following item to July 31, 2012:

Real Estate Taxes Are Paid (RETAP) Policy (3.4 – 6/05/12)

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



FROM: County Counsel and Executive Office

SUBMITTAL DATE:
June 7, 2012

SUBJECT: Report on Real Estate Taxes Are Paid (RETAP) Policy, Adoption of Board Policy B-31 RETAP Policy, and Initiation of Amendment to Ordinance No. 460 Regulating the Division of Land of the County of Riverside.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Receive and file this report on Real Estate Taxes Are Paid (RETAP) Policy;
2. Adopt Board Policy B-31 regarding RETAP;
3. Adopt an order initiating an amendment to Ordinance No. 460, for the purpose of implementing Board Policy B-31, requiring security bonds for real property taxes as a condition of approval for lot line adjustments and condominium maps; and
4. Direct County Counsel to prepare and process the ordinance amendment in consultation with the Treasurer-Tax Collector and appropriate Transportation Land Management Agency (TLMA) departments.

Continued on the next page.

TIFFANY NORTH
Deputy County Counsel, for
Pamela Walls, County Counsel

TINA GRANDE
Principal Management Analyst
Executive Office

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 5,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 5,000	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	11/12

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

C.E.O. RECOMMENDATION:

County Executive Office Signature

3-10
06-19-2012

Departmental Concurrence

ep't Recomm.: Consent Policy
er Exec. Ofc.: Consent Policy

RE: RETAP Policy, and Initiation of Amendment to Ordinance No. 460

Date: June 7, 2012

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BACKGROUND: On April 17, 2012, the Board of Supervisors approved Item 3.3, requesting County Counsel, in consultation with the Executive Office and Treasurer-Tax Collector, research, determine and report back on the Board's authority to adopt a Board policy directing the appropriate departments to not receive an application for a land use approval, a subdivision approval, a grading permit or a building permit, if property taxes are not current on the underlying property or properties.

Representatives from County Counsel, Treasurer-Tax Collector, TLMA and the Executive Office met and discussed the Board's proposal.

Prior to the Board's action of April 17, 2012, the Treasurer-Tax Collector's office contacted County Counsel's office regarding the ability to require security bonds for real property taxes imposed on lot line adjustments and condominium maps as a condition of approval. Since this issue ties into the same concern as RETAP, namely securing payment of property taxes, both items were discussed by County Counsel, Treasurer-Tax Collector, TLMA and the Executive Office at their recent meeting. Requiring such security bonding on lot line adjustments and condominium maps will ensure that unpaid taxes and special assessments will be satisfied. Currently, Section 17.2 of Riverside County Ordinance (RCO) No. 460 requires that a land divider provide "Certificates for taxes and special assessments, as prepared by the Tax Collector, and security for unpaid taxes and special assessments, shall be furnished as required by the Subdivision Map Act." This requirement applies to any "land division" under RCO No. 460 (i.e., any parcel map or tract map). The Board has the authority per Government Code sections 66412(d) and 66493(d) to impose this same security requirement on lot line adjustments and condominium maps. An amendment to Ordinance No. 460 would need to be adopted by the Board. For any ordinance amendment, Board Policy A-67 requires that the Board first adopt an order initiating the amendment. The recommended motion will give County Counsel the authority to begin work on the ordinance amendment to RCO No. 460 and return with the amendment for final adoption by the Board. The estimated cost of the amendment is approximately \$5,000. No additional funding is requested at this time.

With regard to the remainder of the Board's April 17, 2012 RETAP motion, research conducted by County Counsel has not revealed any legal authority which would prevent the Board from adopting a policy directing the appropriate departments to not receive an application for a land use approval, a subdivision approval, a grading permit or a building permit, if property taxes are not current on the underlying property or properties; however, research found no other jurisdiction in the State of California that imposes such a requirement as a condition that must be satisfied prior to filing an application. In a legal forum with 18 other County Counsel offices, an overall hesitancy for jurisdictions to adopt

RE: RETAP Policy, and Initiation of Amendment to Ordinance No. 460

Date: June 7, 2012

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such a proposal for other land use approvals was expressed by all due to possible unintended consequences and due process concerns.

Although research found no jurisdictions in California that require proof of payment of property taxes prior to permit application submittal, research has revealed some jurisdictions outside of California that require such proof. There have been some difficulties associated with the requirement. A specific example comes from French Borough, New Jersey, wherein a property owner behind on his taxes was not entitled to get a permit to repair a heating system, and as a result, a tenant in the building was without heat during the winter.

Given the above, staff recommends narrowing the focus of Policy B-31 (RETAP) to apply to land divisions and lot line adjustments under Ordinance No. 460. The Subdivision Map Act clearly contains authority for such application. Specifically, Policy B-31 will express the Board's intent that the prepayment of real property taxes be required prior to the approval of any lot line adjustment under Ordinance No. 460. Further, whenever any part of a subdivision being processed under Ordinance No. 460 is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the land divider provides a certificate for taxes and special assessments, as prepared by the Tax Collector, and security for unpaid taxes and special assessments, as required by the Subdivision Map Act.

This Form 11 is in compliance with Board Policy A-67.

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



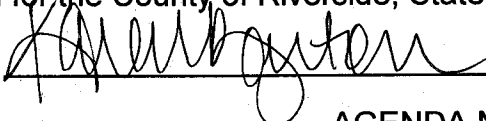
3.4

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Supervisor Stone regarding Real Estate Taxes Are Paid (RETAP) Policy is continued to Tuesday, June 19, 2012 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 5, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 5, 2012
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
3.4

xc: Supvr. Stone, COB



MEMORANDUM

EXECUTIVE OFFICE, COUNTY OF RIVERSIDE

Jay E. Orr
County Executive Officer

George A. Johnson, Assistant
County Executive Officer

TO: Kecia Harper-Ihem, COB

FROM: George A. Johnson, Assistant CEO

DATE: May 29, 2012

RE: CONTINUANCE

Please continue the following item to June 19, 2012:

Real Estate Taxes Are Paid (RETAP) Policy (3.2 – 5/15/12)

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



3.2

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Supervisor Stone regarding Real Estate Taxes Are Paid (RETAP) Policy is continued to Tuesday, June 5, 2012 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on May 15, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: May 15, 2012
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.

xc: Supvr. Stone, COB

3.4



MEMORANDUM

EXECUTIVE OFFICE, COUNTY OF RIVERSIDE

Jay E. Orr
County Executive Officer

TO: Kecia Harper-Ihem, COB
FROM: Jay E. Orr, CEO
DATE: May 9, 2012
RE: CONTINUANCE

Please continue the item below to June 5, 2012:

Real Estate Taxes Are Paid (RETAP) Policy (3.3 – 4/17/12)

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only
KOR*