

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



**3-31**

On motion of Supervisor Jeffries, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the recommendation from the Treasurer-Tax Collector regarding Petition for Rescission of Tax Deed to Purchaser of Tax-Defaulted Property, Sale No. TC 199 Item 121 for APN 343-020-029-5, 1<sup>st</sup> District, is deleted from the agenda for Tuesday, April 7, 2015.

Roll Call:

Ayes: Jeffries, Washington, Benoit and Ashley  
Nays: None  
Absent: Tavaglione

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on April 7, 2015 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors  
Dated: April 7, 2015  
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in  
and for the County of Riverside, State of California.

(seal)

By: *Kecia Harper-Ihem* Deputy

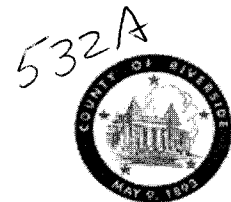
AGENDA NO.  
3-31

xc: Treasurer

FORM APPROVED COUNTY COUNSEL  
 BY: GREGORY P. PRIAMOS DATE 3/24/15

Departmental Concurrence

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



**FROM:** Don Kent, Treasurer/Tax Collector

**SUBMITTAL DATE:**  
 March 24, 2015

**SUBJECT:** Petition for Rescission of Tax Deed to Purchaser of Tax-Defaulted Property, Sale No. TC 199 Item 121, Tax Sale Date 2/4/14 for APN 343-020-029-5; 1st Dist.; [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

- 1) Hold a public hearing under the provisions of Section 3731 of the Revenue and Taxation Code, relative to the Petition of Second Mount Moriah Missionary Baptist Church, Inc./ RLUIP Amb. Charles Linder Floyd to rescind the Tax Deed resulting from the tax sale of assessment parcel number 343-020-029-5 which is vacant land in unincorporated Riverside County near the City of Perris (the "Subject Property").
- 2) At the conclusion of the public hearing, find that the tax sale was lawful; that the Petition lacks legal merit; and deny the Petition.
- 3) Direct the Treasurer-Tax Collector to provide written notice of the Board's decision to the Petitioner and Tax Deed Purchaser.

**BACKGROUND:**

**Summary**

Section 3731 of the Revenue and Taxation Code provides that the Board of Supervisors is to hold a public hearing regarding the possible rescission of a Tax Deed when a timely Petition for rescission is (Continued on Page 2.)

  
 Don Kent  
 Treasurer/Tax Collector

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

<b>SOURCE OF FUNDS:</b>	<b>Budget Adjustment:</b> N/A
	<b>For Fiscal Year:</b> 2014-15

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY:   
 Samuel Wong

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.:

District: 1

Agenda Number:

**3-31**

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

**FORM 11:** Petition for Rescission of Tax Deed to Purchaser of Tax-Defaulted Property, Sale No. TC 199 Item 121, Tax Sale Date 2/4/14 for APN 343-020-029-5; 1st Dist.; [\$0]

**DATE:** March 24, 2015

**PAGE:** Page 2 of 3

**BACKGROUND:**

**Summary (continued)**

filed by the prior owner of the property sold at tax sale. Petitioner timely filed the Petition. In addition, notice of the hearing on the Petition was properly given to the appropriate interested parties as required by law.

The Subject Property was sold at tax sale on February 4, 2014. A Tax Deed for the Subject Property was issued to Norman W. Barnard (the "Tax Deed Purchaser") on a bid of \$17,300 plus documentary transfer tax of \$19.25.

As of 1996, the Subject Property had belonged to the Second Mount Moriah Missionary Baptist Church of Los Angeles California (the "Church"). Some years ago, the church conveyed the property to a relative of the church minister. The taxes became delinquent in the amount of approximately \$10,503.02. (There were no Code Enforcement liens or nuisance abatement liens on the Subject Property.) Proper notices were given and the property was sold at tax sale pursuant to the procedures of the Revenue and Taxation Code.

Three days before the tax sale, the Subject Property was once again deeded back to the Church. The Church took title subject to the delinquent taxes, but failed to pay the taxes before the right of redemption terminated.

Charles Floyd ("Petitioner") filed a timely Petition to Rescind the Tax Deed and to Set Aside the Tax Sale (the "Petition") on behalf of the Church. The Petition is attached.

Petitioner claims that the tax sale should not have taken place because the sale violates the Religious Land Use and Institutionalized Persons Act ("RLUIPA").

Petitioner has the burden of proof to show that the Subject Property should not have been sold.

The Treasurer-Tax Collector and County Counsel have reviewed the Petition and determined that it lacks merit because RLUIPA does not prohibit tax sales of property to collect delinquent taxes.

RLUIPA (42 U.S.C. § 2000cc) generally prohibits a local government from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, except in certain circumstances.

Nevertheless, the Treasurer-Tax Collector's sale of the Subject Property to collect delinquent taxes is not prohibited by RLUIPA because the tax sale does not involve the application of a land use regulation as defined by RLUIPA.

RLUIPA expressly defines the term "land use regulation." RLUIPA reflects that 'the term 'land use regulation' means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land...."

Federal courts have consistently held that a government agency implements a "land use regulation," for purposes of RLUIPA, only when it acts pursuant to a zoning or landmarking law that limits the manner in which a claimant may develop or use his property. See, e.g., Prater v. City of Burnside, 289 F.3d 417 (6<sup>th</sup> Cir. 2002) cert. denied 537 U.S. 1018 (2012).

In undertaking the tax sale of the Subject Property, however, the Treasurer-Tax Collector was not acting pursuant to any zoning or landmarking law to limit the manner in which Petitioner develops or uses his property. Moreover, the tax sale by the Tax Collector did not result from the application of a zoning or landmarking law.

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

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**DATE:** March 24, 2015

**PAGE:** Page 3 of 3

Instead, the Tax Collector applied the provisions of the Revenue and Taxation Code to collect the delinquent taxes on the Subject Property because a tax sale is the exclusive means of enforcing the payment of taxes on the secured roll. Accordingly, no zoning or landmarking law was applied to the Subject Property by the Treasurer-Tax Collector.

Because the Tax Collector was not acting pursuant to a zoning or landmarking law when conducting the tax sale, the tax sale is not prohibited by RLUIPA.

No court has ever held that a tax sale is an application of a land use regulation prohibited by RLUIPA.

On the contrary, courts have held that other types of taking of church property, such as condemnation under eminent domain, are not prohibited by RLUIPA because they are not actions pursuant to zoning or landmarking laws. See, e.g., St. John's United Church of Christ v. City of Chicago, 502 F.3d 616 (7<sup>th</sup> Cir. 2007) cert. denied 553 U.S. 1032 (2008).

The same result applies to the sale of church property at tax sale because tax sales are undertaken pursuant to tax codes and not pursuant to any zoning or landmarking laws.

Because RLUIPA only prohibits substantial burdens on religion resulting from the application of land use regulations and because the Tax Collector did not sell the Subject Property as a result of the application of land use regulations, the tax sale of the Subject Property is not prohibited by RLUIPA.

Consequently, the Petition lacks merit; and Petitioner has failed to meet his burden of proof that the tax sale should not have occurred.

Therefore, the Board of Supervisors should deny the Petition.

**Impact on Citizens and Businesses**

There is no impact on citizens or businesses.

**ATTACHMENTS (if needed, in this order):**

Petition

**Harper-Ihem, Kecia**

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**From:** Johnson, Melissa <MJOHNSON@co.riverside.ca.us>  
**Sent:** Monday, April 06, 2015 9:39 AM  
**To:** Wagner, Lisa M; Harper-Ihem, Kecia  
**Subject:** BOS item 3-31 on April 7, 2015  
**Attachments:** EXECUTIVE OFFICE MEMO.doc

Good morning Ladies,

Item 3-31 needs to be deleted from the board hearing tomorrow but should be moved to May 19, 2015 per the attached memo.

P.S. Sorry about the confusion next time I will make sure I hold onto to the form 11 until the date gets closer.

Thank you,

Melissa Johnson  
Chief Deputy Treasurer-Tax Collector  
(951) 955-3949

4-7-15  
3-31



**COUNTY OF RIVERSIDE  
OFFICE OF THE TREASURER TAX-COLLECTOR**

# MEMO

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**Date** March 26, 2015  
**To:** Sam Wong  
**From:** Melissa Johnson  
**Subject:** Form 11 for Board Agenda

I am submitting one Form 11 for the Board Agenda on May 19, 2015 at the 9:30 am public hearing.

Should you have any questions, please contact me immediately at 53949.

Thank you.

Melissa Johnson

**ATTACHMENTS FILED**  
**WITH**  
**THE CLERK OF THE BOARD**