



Agenda Date: 11/7/2006  
Agenda Placement: 8C  
Set Time: 10:45 AM PUBLIC HEARING  
Estimated Report Time: 10 Minutes

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** John Tuteur - Assessor  
Assessor  
**REPORT BY:** John Tuteur, Assessor-Recorder-County Clerk, 253-4459  
**SUBJECT:** Public Hearing - Application for Abatement of Change of Ownership Penalty

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### **RECOMMENDATION**

Consideration and possible action regarding an Application filed by William and Andrea Phelps and Joseph F. Phelps Trust requesting abatement of the penalty for failure to file a Change of Ownership Statement for Assessor Parcel No. 025-070-042.

### **EXECUTIVE SUMMARY**

Pursuant to Revenue and Taxation Code (R&T Code) Section 482, a mandatory penalty is assessed when a Change of Ownership Statement is not filed timely with the Assessor, as required by R&T Code Section 480(a). An Application for Change of Ownership Abatement of Penalty was filed with the Clerk of the Board by members of the Phelps family for hearing by the Board of Supervisors.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	If the Board upholds the penalty, a mandatory penalty of the greater of \$100 or ten (10) percent of the taxes applicable to the new base year value following a change of ownership of real property or a mobile home, but not to exceed \$2,500, is added to the assessment roll when a property owner fails to file a Change of Ownership Statement within the required time frame of 45 days from the date of a written request by the Assessor. If the Board abates the penalty, this revenue will not be collected.
Is it Mandatory or Discretionary?	Mandatory

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Is the general fund affected?	Yes
Future fiscal impact:	None. This is one time revenue if penalty is not abated.
Consequences if not approved:	Since the Application requesting abatement of the penalty for failure to file a Change of Ownership Statement was filed in time, the Board is mandated to hold the hearing. The Board could risk litigation if they fail to hold the hearing.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

There is no Environmental Impact for this item.

### **BACKGROUND AND DISCUSSION**

On August 1, 2006, the office of the Clerk of the Board received an Application for Change of Ownership Abatement of Penalty from the owners of Assessor Parcel No. 025-070-042. The penalty was assessed because the owners did not timely file a Change of Ownership Statement.

Pursuant to Revenue and Taxation Code Section 482, a mandatory penalty of the greater of \$100 or ten (10) percent of the taxes applicable to the new base year value following a change of ownership of real property or a mobile home, but not to exceed \$2,500, is added to the assessment roll when a property owner fails to file a Change of Ownership Statement within the required time frame of 45 days from the date of a written request by the Assessor.

On June 16, 2005, members of the Phelps family recorded deed 2005-0023880 taking title to Assessor Parcel No. 025-070-042. This deed was marked Ownership Report Not Filed (ORNF) due to the fact that a Preliminary Change in Ownership Report (PCOR) was not filed with the deed as required by Revenue and Taxation Code Section 480.3. On July 18, 2005 the County Assessor's office sent a letter to the owners and a Change of Ownership form by first class mail because a PCOR had not been filed with the deed (the letter was mailed to – PO Box 1031, St. Helena, CA, 94574). On August 18, 2005 the Assessor's office sent the owners a second notice and a Change of Ownership form by certified mail (the letter was mailed to – PO Box 1031, St. Helena, CA, 94574). The Return Receipt signed by Susan Sandler was returned on August 24, 2005. Finally, on June 16, 2006, the Assessor's office mailed a penalty letter to the owners by certified mail, return receipt requested (the letter was mailed to – PO Box 1031, St. Helena, CA 94574). The Return Receipt signed by Susan Sandler was returned.

Mr. William Phelps filed a Change of Ownership form with the Assessor's office on August 1, 2006. Members of the Phelps family also filed the abatement of penalty application on August 1, 2006 which was within 60 days of the June 16, 2006 penalty notification.

**SUPPORTING DOCUMENTS**

- A . Mr. Phelps' Application for Abatement of Penalty
- B . Notice of hearing letter to Mr. Phelps

CEO Recommendation: Approve

Reviewed By: Maiko Klieman