



Agenda Date: 8/1/2006  
Agenda Placement: 8G  
Set Time: 10:00 AM PUBLIC HEARING  
Estimated Report Time: 20 Minutes

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Britt Ferguson for Nancy Watt - County Executive Officer  
Clerk of the Board  
**REPORT BY:** Pamela Miller, Clerk of the Board/Admin. Manager, 253-4196  
**SUBJECT:** Public Hearing - Abatement of Penalty

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### **RECOMMENDATION**

Consideration and possible action regarding an Application filed by David Lopez requesting abatement of the penalty for failure to file a Change of Ownership Statement for Assessor's Parcel No. 004-593-016.

### **EXECUTIVE SUMMARY**

Pursuant to Revenue and Taxation Code (R&T Code) Section 482, a mandatory penalty is assessed when a Change in 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 Mr. David Lopez for hearing by the Board of Supervisors.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

On March 27, 2006, the office of the Clerk of the Board received an Application for Change of Ownership Abatement of Penalty from David Lopez. The penalty was assessed because he 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 in 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 in Ownership Statement within the required time frame of within 45 days from the date of a written request by the Assessor.

On June 16, 2005, Mr. David Lopez recorded deed 2005-0023058, taking title to Assessor Parcel No. 004-593-016. The 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.

In his Application for Abatement of Penalty, Mr. Lopez states as his reason for seeking abatement of the penalty that he filed late because he did not receive notice until March 27, 2006 and that when he received the penalty notice he immediately filed the Change of Ownership Abatement of Penalty Application.

However, on July 18, 2005, the Assessor sent Mr. Lopez a letter requesting he complete and return the Change of Ownership form that was enclosed with the letter. On August 23, 2005, the Assessor mailed a second notice and again included the required Change of Ownership form (via Certified mail with a Return Receipt requested) to Mr. Lopez. The Return Receipt was received back, signed, on August 30, 2005. Finally, on March 6, 2006, the Assessor mailed a penalty letter to Mr. Lopez via Certified mail with a Return Receipt requested. The Return Receipt for the notice of penalty was received back on March 27, 2006, signed by Mr. Lopez.

As of the date of completion of this Board Letter, Mr. Lopez has still not filed the required Change in Ownership Statement nor paid the penalty. He is now well beyond the statutory time period for filing the Statement without penalty, without reasonable explanation. The Assessor recommends your Board uphold the penalty and deny Mr. Lopez's Application for Change of Ownership Abatement of Penalty.

**SUPPORTING DOCUMENTS**

- A . Notice of hearing letter to Mr. Lopez
- B . Mr. Lopez's Application for Abatement of Penalty
- C . Memo from Assessor dated June 25, 2006

CEO Recommendation: Approve

Reviewed By: Maiko Klieman