



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: TMP-2652

Board Meeting Date: 1/29/2019

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Michael P. Callagy, County Manager
John C. Beiers, County Counsel

Subject: Claims for Refund Submitted by Carolands Foundation Appealing Decision of Assessor Regarding Eligibility for Welfare Exemption (Revenue & Taxation Code sections 214, 5096, and 5097).

RECOMMENDATION:

Deny claims for refund appealing decision of Assessor regarding eligibility for welfare exemption for fiscal years 2014, 2015, and 2016, as the Board previously did for fiscal year 2013.

BACKGROUND:

The Assessor has a constitutional duty to assess property, and all property in the state is subject to property taxes unless an exemption applies. In this case, the Assessor's Office determined that property owned by the Carolands Foundation in Hillsborough is eligible for a partial, rather than full, exemption from property taxes. The Carolands Foundation asserts that it is entitled to a full exemption and has initiated litigation against the County, which remains pending in San Mateo County Superior Court.

DISCUSSION:

In 2012, the Johnson family donated the Carolands Estate in Hillsborough to the Carolands Foundation, a non-profit entity. Beginning in 2013, the Carolands Foundation applied to the Assessor's Office for a "welfare exemption" under Revenue & Taxation Code section 214. Under that provision, property used exclusively for religious, hospital, scientific, or charitable purposes is exempt from taxation, provided certain requirements are met. The Assessor's Office evaluated the eligibility of the Carolands Foundation for the exemption, seeking additional information regarding the use of the property and meeting on multiple occasions with the Foundation's representatives.

The Assessor's Office learned that the property was being used as a venue for fundraising events held by a variety of non-profit organizations. Under Revenue and Taxation Code section 214, a property may be eligible for the welfare exemption, notwithstanding its use for "fundraising activities" by certain qualifying organizations, so long as that use is only "occasional." Relying on statutory

definitions and other legal guidance, including from the State Board of Equalization, the Assessor determined that the Carolands property was used for “fundraising activities” during the relevant time period on a more than “occasional” basis and thus did not qualify for the full exemption for the fiscal years at issue. However, the Assessor’s Office further determined that the Carolands Foundation was entitled to a *partial* exemption for the relevant fiscal years due to the fact that only *part* of the property was used for fundraising activities. Without any exemption, the Carolands Foundation would owe approximately \$1.4 million in property taxes for each of the fiscal years of 2014, 2015, and 2016. Applying the partial exemption, the Assessor’s Office determined that the amount of property taxes owed was instead approximately \$680,639, \$697,031, and \$721,442, respectively. These amounts are not reflected in the claims for refund, which are based on the amount of taxes previously paid by the Carolands Foundation for fiscal years 2014, 2015, and 2016, due to the fact that the initial tax bills did not include the full amounts due.

The Carolands Foundation disagrees with the decision of the Assessor’s Office and asserts that it is entitled to the full exemption under the law. The Carolands Foundation previously filed a claim for refund for the 2013 fiscal year, which the Board of Supervisors denied. Subsequently, the Carolands Foundation filed litigation against the County in San Mateo County Superior Court, seeking a refund of the property taxes paid for that fiscal year. That litigation is currently pending. It is the County’s understanding that the Carolands Foundation intends to amend its complaint in that litigation, to add the fiscal years covered by the claims for refund now before the Board of Supervisors, if the Board of Supervisors denies those claims. Thus, regardless of the Board’s decision on the currently pending claims for refund, the dispute regarding the underlying legal issues is likely to be resolved by the courts.

Given the posture of this matter and the fact that it raises questions of law naturally addressed by the judiciary, staff recommends that the claims be denied.