

August 18, 2016

Dear Stanislaus County Board of Supervisors and Clerk of the Board:

Attached please find a City of Patterson certified Resolution No. 2016-59, a resolution of the City Council of the City of Patterson, recommending that the Stanislaus County Board of Supervisors provide for a real estate watchdog reward.

The attached resolution was approved by the Patterson City Council on the August 16, 2016 at a regular City Council meeting.

Sincerely,

*Maricela*

Maricela L. Vela  
City Clerk/Elections Official  
Of the City of Patterson  
Administration Department  
1 Plaza, 2<sup>nd</sup> Floor  
P.O. Box 667  
Patterson, CA 95363

**RESOLUTION NO. 2016-59**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PATTTERTSON  
RECOMMENDING THAT THE STANISLAUS COUNTY BOARD OF SUPERVISORS  
PROVIDE FOR A REAL ESTATE WATCHDOG REWARD**

**WHEREAS**, after the passage of Proposition 13 in 1978, real property is reassessed only after it is transferred to a new owner; and

**WHEREAS**, Stanislaus County, particularly the Stanislaus County Assessor, is responsible for the proper assessment of all property taxes within Stanislaus County; and

**WHEREAS**, Stanislaus County is constitutionally required to properly assess all property within the county, including any improperly assessed property and to encourage reporting of property tax evasion due to simple mistake, misfeasance, malfeasance, fraud, or for whatever reason as improperly assessed property adversely impacts provision of vital public services; and

**WHEREAS**, a Patterson citizen has discovered what he believes is a property owner's failure to report a change of ownership triggering escaped assessments of approximately \$2,000,000; and

**WHEREAS**, as lost property tax revenue impacts school, cities, and special districts funding, as well as the county's revenue, and therefore any decision not to collect escaped property tax revenue impacts of \$2,000,000 also effects cities and special districts; and

**WHEREAS**, Stanislaus County Board of Supervisor Jim DeMartini has written that Stanislaus County has "sought innovative ways" to expand services to Stanislaus County; and

**WHEREAS**, the City and County of San Francisco has adopted an ordinance to reward real estate watchdogs, such as the Patterson citizen who has found escaped assessments, as an innovative way to expand revenue for the City of San Francisco; and

**WHEREAS**, public policy is clearly stated in the State Constitution that all property shall be properly taxed and assessed at the same percentage of the fair market value; and

**WHEREAS**, Stanislaus County has a constitutional duty to levy escaped assessments and there can be no public policy that should protect property tax evader; and

**WHEREAS**, fairness is paramount to all County taxpayers who at this particularly time of the year are paying their property taxes; and

**WHEREAS**, there are not enough County staff to monitor all property transfers in the county and citizens should be encouraged via a reward system to report such significant property tax evasion that involve approximately \$2,000,000; and

**WHEREAS**, the State of California already rewards individuals who report false claims up to 30% of the recovery as does the federal government for federal income tax evasion.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Patterson that it supports the reward request as stated in the February 4, 2016 letter to Supervisor Jim

DeMartini for 5% of the total escaped assessments, penalties, interest, and supplemental taxes and directs the City Clerk to send a copy of this resolution to Stanislaus County Board of Supervisors.

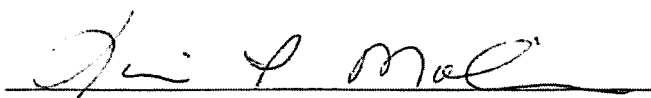
The foregoing resolution was passed by the City Council at a regular meeting held on the 16<sup>th</sup> day of August, 2016, Councilmember La Torre, who moved its adoption, which motion was duly seconded by Councilmember Farinha by the resolution adopted by the following roll call vote:

AYES: Councilmembers McCord, Novelli, Farinha and La Torre

NOES: Mayor Molina

EXCUSED: None

APPROVED:



Luis I. Molina, Mayor of the City of Patterson

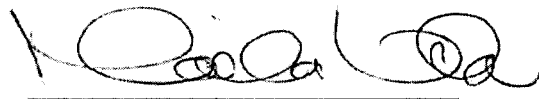
ATTEST:



Maricela L. Vela, City Clerk of the City of Patterson

I hereby certify the foregoing is a full, correct, and true copy of a resolution passed by the City Council of the City of Patterson, a municipal corporation of the County of Stanislaus, State of California, at a regular meeting held on the 16<sup>th</sup> day of August, 2016, and I further certify that said resolution is in full force and effect and has never been rescinded or modified.

Dated: August 18, 2016



City Clerk of the City of Patterson  
Maricela L. Vela

**DENNIS BEOUGHER**

*Attorney*

355 W. Las Palmas, Patterson, CA 95363

Telephone: (925) 216-9960

E-mail: farmer580@cv-access.com

February 4, 2016

Stanislaus County Board of Supervisors  
Supervisor James DeMartini  
1010 10th Street, Ste. 6500  
Modesto, CA 95354

Re: Reward for Property Tax Evasion Reporting

Dear Supervisor DeMartini:

Thank you and the members of County staff for meeting with my client, Howard Sword, and me concerning the escaped assessments from a property owner who did not file a change of ownership and has escaped property tax payments for more than nine years. As a result of change of ownership, I believe that as much as \$2,500,000 is owed in escaped assessments. Since Proposition 13 was passed in 1978, a change of ownership is the primary occurrence for reassessment and increased property tax assessment.

At our meeting County staff agreed to research the issue of whether there was a statute or prohibition against a whistleblower receiving some proportion of the eight years of escaped assessments, penalty pursuant to Revenue and Taxation Code section 504, and supplemental assessments. After I completed further research, my client requested that staff not research the matter any further and requested another meeting to discuss a new proposal.

We had initially suggested that my client would receive 30% of the assessments. Your staff correctly pointed out that Stanislaus County only receives approximately 12% of each property tax dollar collected, pursuant to the AB8 formula. County staff correctly stated that Stanislaus County does not have the authority to allocate any more than the amount Stanislaus County receives.

Based upon my legal research, there is no statute that permits a whistleblower to collect any money based on any claim resulting from a Revenue and Taxation Code violation [Revenue and Taxation Code section 12651(f)]. However, I could find no law that prohibits a taxing entity to contract or permit someone to collect a reward for a portion of that entity's property tax. In fact, the City and County of San Francisco adopted in 2011 a reward for information concerning underpayment of property tax that authorizes payment up to \$500,000 for such information. A copy of San Francisco Administrative Code Sections 10.177-2 and 10-177-3 is enclosed.

The public policy in this situation is stated in the State Constitution requiring that all property shall be properly taxed and assessed at the same percentage of fair market value. In fact, court decisions have held that an assessor has a constitutional duty to levy escaped assessments. *Bauer-Schwitzer Malting Co. v. City and County of San Francisco*, 8 C.3d 942 (1973) Also, all property so assessed shall be taxed in proportion to its full value. At this time of year when homeowners are paying their property taxes, a property owner who has evaded payment of its property taxes for more than nine years should not be rewarded. My client has suggested a way to correct this with a simple contract.


Stanislaus County as a public policy matter should not encourage property tax evasion. Much like a person assisting the County Sheriff in the arrest of a fugitive receiving a monetary reward, I believe that a citizen should be rewarded for assisting the County's Assessor in his compliance with his constitutional duty to properly tax all property to its full value.

My client knows of a change of ownership that would generate at least \$150,000 to Stanislaus County and as well as generate at least \$30,000 every year thereafter. I cannot understand why Stanislaus County would not be interested in stopping property tax evasion plus receiving at least \$150,000 of additional money to its general fund.

There may be opposition to this request merely because it has never been requested or done before. While this may be the first time in thirty seven years that Stanislaus County has received this type of reward request, it should not be ignored because it is something that has not been done before. The public policy should be to encourage reporting of significant property tax evasion, as there are not enough people in the Assessor's office to complete audits of all business or individual actions that would trigger a reassessment. Also, identical rewards are clearly allowed. As with the City and County of San Francisco that recently allowed rewards for the identical type of request, the State of California in its False Claims Act and the federal government through the Internal Revenue Code and its False Claim Act reward individuals who report false claims and federal tax evasion with a finder's fee of between 15% and 30% of the recovered amount.

I believe that my client deserves at least 5% of the total amount of the escaped assessments, penalties, and first year after this reporting as a reward for disclosing this property tax evader, as the County of San Francisco has done since 2011. Right now, I am merely requesting a meeting to discuss a possible reward.

Sincerely,

  
Dennis Beougher

cc: John P. Doering, Esq. Stanislaus Co. County Counsel

Don Gaekle, Stanislaus County Assessor



**City and County of San Francisco**  
**Tails**  
**Ordinance**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 110068

**Date Passed:** March 15, 2011

Ordinance amending the San Francisco Administrative Code by amending Chapter 10, Sections 10.177-2 and 10.177-3, authorizing the Assessor to recommend rewards for information related to the detection of underpayment of tax owed to the City and County of San Francisco.

March 02, 2011 Budget and Finance Sub-Committee - RECOMMENDED

March 08, 2011 Board of Supervisors - PASSED, ON FIRST READING

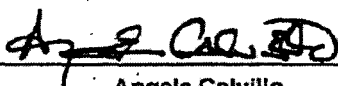
Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener


March 15, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 8 - Avalos, Chiu, Chu, Elsbernd, Farrell, Kim, Mar and Wiener  
Excused: 3 - Campos, Cohen and Mirkarimi

File No. 110068

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on 3/15/2011 by the Board of Supervisors of the City and County of San Francisco.

  
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Angela Calvillo  
Clerk of the Board

  
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Mayor Edwin Lee

  
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Date Approved

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**SEC. 10.177-3. PAYMENT.**

The Controller shall pay out of any appropriation created for the purpose any reward authorized pursuant to Section 10.177-2 above, provided that an application for such reward is filed in pursuant to the procedures established by the Controller's Assessor's office, the Assessor has recommended an amount of reward be paid on the application, and the recommended reward is approved by the Board of Supervisors.

Section 2. The Board of Supervisors authorizes the Assessor to recommend and the Controller to pay a reward for information concerning underpayments of tax, as provided in Administrative Code Sections 10.177-2 and 10.177-3, respectively, based on information provided after February 16, 2011, the date when the Assessor's prior authorization expired, and before the effective date of this ordinance.

Section 3. Unless the Board of Supervisors amends this ordinance to continue its operation prior to the sunset of the Assessor's authority to recommend rewards, this ordinance shall expire and the City Attorney shall cause it to be removed from the City's codes.

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By:   
**STEPHANIE PROFFITT**  
Deputy City Attorney

1. (5) may not be more than ~~five hundred~~ one hundred thousand dollars  
2. (~~\$500,000.00~~ \$100,000.00); and

3. (6) will be paid as soon as administratively feasible after approval by the  
4. Board of Supervisors.

5. (e) The authority provided for in this ~~section~~ Section to recommend a reward to be  
6. paid from the general fund for information leading to the detection of an underpayment of  
7. property tax owing to the City and County of San Francisco when the underpayment results  
8. from a change of ownership (as defined in Revenue and Taxation Code § 60 et seq.) that was  
9. not reported as required under Division 1, Part 2, Chapter 3, Article 2.5 of the Revenue and  
10. Taxation Code shall be available to and may be exercised by the Assessor for a period of five  
11. years from the effective date of this Section.

12. (f) After review by the Controller. The Assessor shall submit an annual report to the  
13. Board of Supervisors for each year for which the reward program authorized under this  
14. Section is in existence that sets forth any identifiable increases in property tax assessments  
15. resulting from information obtained due to this program.

16. ~~(g) The Controller shall submit an annual report to the Board of Supervisors for each year~~  
17. ~~for which the reward program authorized under this Section is in existence that sets forth any~~  
18. ~~identifiable increases in property tax revenues resulting from information obtained due to this~~  
19. ~~program.~~

20. (hg) Not later than six months prior to the expiration of the Assessor's authority as  
21. provided in subsection (d) above, ~~the Controller and~~ the Assessor shall ~~confer and~~ recommend to  
22. the Board of Supervisors whether the Assessor's authority to recommend rewards under this  
23. ordinance should continue for an additional period.

24.  
25.



1 (c) In order for a real estate watchdog to qualify for a reward:

2 (1) the Assessor must certify that the unreported change of ownership will  
3 result in a re-assessment leading to the actual collection of the tax or a lien or other device  
4 that is reasonably likely to result in the collection of the tax;

5 (2) the watchdog must not have participated in concealing the unreported  
6 transfer;

7 (3) the information furnished must be information unknown to the Assessor,  
8 and

9 (4) the watchdog must file an application for reward along with supporting  
10 documentation ~~in~~with the Office of the Controller Assessor for the City and County of  
11 San Francisco, who shall have the authority to prescribe the form of the application and to design and  
12 administer the watchdog program.

13 (d) ~~The Controller shall forward all applications and supporting documentation received~~  
14 ~~pursuant to this section to the Assessor for investigation and evaluation.~~ The Assessor shall make a  
15 determination on every application filed and, if in his discretion a reward is warranted,  
16 recommend an amount of reward to the Board of Supervisors. Rewards are entirely in the  
17 City's discretion and there is in no circumstance the right to an award. The amount of the  
18 recommended reward on an application:

19 (1) reposes in the discretion of the Assessor;

20 (2) is subject to approval by the Board of Supervisors;

21 (3) will be determined based on the usefulness of information furnished;

22 (4) may be up to ten percent of the increase in tax due from the date of the  
23 unreported change in ownership to the date the information is provided that is or would be  
24 collected because of the information provided;

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FILE NO. 110068

ORDINANCE NO. 48-11

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[Administrative Code - Rewards to Informants for Information Related to the Detection of Underpayment of Property Tax]

**Ordinance amending the San Francisco Administrative Code by amending Chapter 10, Sections 10.177-2 and 10.177-3, authorizing the Assessor to recommend rewards for information related to the detection of underpayment of tax owed to the City and County of San Francisco.**

NOTE: Additions are single-underline italics Times New Roman; deletions are ~~strike-through italics Times New Roman~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

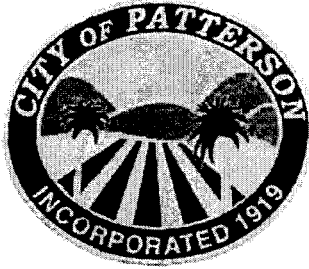
Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by amending Sections 10.177-2 and 10.177-3 to read as follows:

**SEC. 10.177-2. REWARD FOR INFORMATION CONCERNING UNDERPAYMENTS OF TAX.**

(a) The Assessor of the City and County of San Francisco is hereby authorized to recommend a reward to be paid by the Board of Supervisors from the general fund for information leading to the detection of an underpayment of property tax owing to the City and County of San Francisco when the underpayment results from a change of ownership (as defined in Revenue and Taxation Code § 60 et seq.) that was not reported as required under Division 1, Part 2, Chapter 3, Article 2.5 of the Revenue and Taxation Code.

(b) For purposes of this section, the term "real estate watchdog" means a person providing information leading to the detection of an underpayment of property tax (when the underpayment results from a change of ownership as defined in Revenue and Taxation Code § 60 et seq.) owing to the City and County of San Francisco.



## CITY COUNCIL AGENDA REPORT

TO: Mayor Molina and Members of the City Council  
FROM: City Manager Irwin  
BY: City Attorney Hallinan  
MEETING DATE: August 16, 2016  
ITEM NO.: 7.1  
SUBJECT: Approve a Resolution (No. 2016-59) to be Forwarded to Stanislaus County Board of Supervisors in Support of a Reward to a Real Estate Watchdog and provide a verbal report regarding meeting and discussion with Stanislaus County staff and supervisor at Council's request. (June 21, 2016 Council Meeting Item)

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### RECOMMENDATION

Approve a Resolution (No. 2016-59) to be Forwarded to Stanislaus County Board of Supervisors in Support of a Reward to a Real Estate Watchdog and provide a verbal report regarding meeting and discussion with Stanislaus County staff and supervisor at Council's request.

### ANALYSIS

California's Proposition 13, passed in 1978, was the nation's first modern legislation to keep real property tax assessments and taxes stable until a property sale. The measure was designed to protect existing owners from rising taxes amid escalating real estate values. Prior to 1978, assessors did not care who owned a building or real estate as property was appraised yearly and taxed based on that valuation. Property values are now essentially frozen at the time the owner obtained the real estate and only reassessed when it changes hands. Determining ownership and when it changes is paramount.

Under California law, a property reassessment, which usually leads to higher real property taxes, occurs only after real estate changes hand or is upgraded. This creates an incentive for some owners to hide transactions. County Tax Assessors rely on buyers and sellers who are obligated to declare ownership changes so the higher taxes can be collected promptly rather than retroactively.

Stanislaus County, particularly Stanislaus County Assessor, is responsible for the proper assessment of all property taxes within Stanislaus County. "All property in the State, not exempt

under the laws of the United States, or, of this State is subject to taxation...." Cal Constitution, article XIII, section 1(a). All property is taxable and shall be assessed at the same percentage of fair market value.

Stanislaus County is constitutionally required to properly assess all property within Stanislaus County, including any improperly assessed property and to encourage reporting of property tax evasion due to simple mistake, misfeasance, malfeasance, fraud, or for whatever reason a property owner's assessment has not been correctly assessed as lost property taxes impact provision of such vital public services as law enforcement services, social welfare programs, and other essential services.

### **ESCAPED ASSESSMENTS**

A Patterson citizen has discovered what he believes is a property owner's failure to report a change of ownership triggering escaped assessments of at least \$2,000,000 (eight years of unreported escaped assessments of property taxes, penalty and interest of a rate of 9% and 8% respectively, a 25% penalty if the escaped assessment involves personal property, and supplemental taxes).

This lost property tax revenue not only impacts education funding, but cities and special districts, as well as county revenue. Therefore, any decision not to collect this lost revenue also has fiscal impacts upon cities as well as special districts. This would appear to be one of the "innovative ways" to expand services. As written in the Guest Column of the West Side Index, March 16, 2016, Supervisor Jim DeMartini stated:

"Cooperation between all levels of governments is essential for the efficient delivery of services. Stanislaus County is committed to building strong relationships with city, state, and federal governments to best serve local communities. The county has sought innovative ways to utilize partnerships, leverage resources, and expand services to the people of Stanislaus County.

The cities and Stanislaus County generally work well together and why shouldn't they? Both are in the same business, which is providing necessary services that give us the quality of life we all enjoy."

It is believed that some portion of this \$2,000,000 is lost revenue to the City of Patterson. It is estimated that Stanislaus County would receive approximately \$16,000 annual as its allocation (12%) of property tax revenues. a lump sum of at least \$140,000 (even with a proposed reward paid to the real estate watchdog of 5%), plus possible \$16,000 for its administrative costs.

There is no statute that explicitly permits a real estate watchdog, such as this citizen, from receiving a reward. However, there is no law that prohibits a taxing entity, whose constitutional responsibility is to properly assess all properties, from contracting or permitting someone to collect a reward for a portion of the entities property tax receipts. In fact, the City and County of San Francisco adopted in 2011 a reward for information concerning underpayment of property tax that authorizes payment up to \$500,000 for such information. A copy of San Francisco Administrative Code Section 10.177.2 and 10.177-3 is attached.

### **PUBLIC POLICY**

The public policy in this situation is stated in the State Constitution requiring that all property shall be properly taxed and assessed at the same percentage of fair market value. An assessor has a constitutional duty to levy escaped assessments and after more than eight years it does not appear that the County Assessor will find the property tax evasion. Fairness is paramount to all County

taxpayers, particularly at this time of year when homeowners are paying their property taxes. Fairness also demands that a property owner who has evaded payment of its property taxes for more than eight years should not be rewarded. There does not appear to be any public policy that should protect a property tax evader.

There are not enough County Assessor's auditors and county staff to monitor all transactions in Stanislaus County. Citizens should be encouraged via a reward system to report such property tax evasion. Rewards are given by the State or the courts to individuals, up to 30% of recovered damages, for reporting false claims made to the state or local units of government. Rewards up to 30% of the recovered taxes are also given to individuals by the federal government who report federal tax evaders. Whistleblowers/real property watchdogs should be encouraged as it saves from increasing County Assessor's staff to fulfill their duty to properly assess all properties in the County.

The City of Patterson supports the request, as stated in the attached letter, for a reward of 5% of the total escaped assessments, penalties, interest, and supplemental assessments. Also, it should be noted that Stanislaus County could possibly be repaid up to 1/6 of this reward pursuant to Property Tax Administration Cost, permitted by Revenue and Taxation Code section 95.3 and 97.75 and Stanislaus County Ordinance Code section 4.44.010.