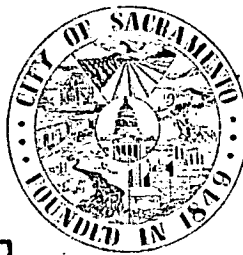


CONTINUED
FROM 3/23/99
TO 3/30/99



~~APPROVED~~
~~BY THE CITY COUNCIL~~
MAR 30 1999
OFFICE OF THE
CITY CLERK

1.13

OFFICE OF THE
CITY ATTORNEY

SAMUEL L. JACKSON
CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

WITHDRAWN

MAR 30 1999

BY THE CITY COUNCIL
OFFICE OF THE CITY CLERK

CITY OF SACRAMENTO
CALIFORNIA

980 NINTH STREET, TENTH FLOOR
SACRAMENTO, CA 95814-2736
PH 916-264-5346
FAX 916-264-7455

March 18, 1999

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Delinquent Assessment Lawsuits

LOCATION AND COUNCIL DISTRICT: All Districts

RECOMMENDATION: Adopt Resolution Ratifying and Ordering Judicial Foreclosure of Delinquent Assessments Pursuant to the Improvement Bond Act of 1915 on Sacramento County Parcel APN 215-0241-008

CONTACT PERSONS: Shana S. Faber, Senior Deputy City Attorney, 264-5346

FOR COUNCIL MEETING OF: March 23, 1999

SUMMARY: On January 31, 1995, the City of Sacramento through its special legal counsel commenced Sacramento County Superior Court Action No. 95AS00547, to foreclose on delinquent 1915 Improvement Bond Act assessments on Sacramento County Parcel APN 215-0241-008, for 1993/94 delinquencies. Subsequent to the filing of the lawsuit, the property owner became delinquent on the 1994/95, 1997/98, and 12/10/98 installments. This report recommends that the Sacramento City Council adopt a Resolution which orders judicial foreclosure of all current and future delinquent assessments on the subject parcel.

BACKGROUND: On July 21, 1992, the Sacramento City Council adopted Resolution No. 92-530, which ordered the Sacramento County Treasurer-Tax Collector to return unpaid 1915 Improvement Bond Act assessments in excess of \$1,000.00 as of July 1, 1993, and each July 1 thereafter, to the City of Sacramento to pursue judicial foreclosure. Thereafter, the Sacramento City Council ceased adopting a resolution ordering foreclosures on an annual basis.

SENIOR DEPUTY CITY ATTORNEYS
RICHARD E. ARCHIBALD
SHANA S. FABER

DEPUTY CITY ATTORNEYS
DIANE B. BALTER
BRUCE C. CLINE
MARY K. DRISCOLL
GERALD C. HICKS
STEVEN T. JOHNS
H. MICHON JOHNSON
GUSTAVO L. MARTINEZ
JOHN A. NAGEL
JOHN C. PADRICK
JOSEPH A. ROBINSON
ARNOLD D. SAMUEL
ROBERT K. SANDMAN
PATRICIA D. SCOTLAN
DANIEL H. SHEPHARD
SANDRA G. TALBOTT
ROBERT D. TOKUNAGA

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FROM
TO

WINDHAM
MAR 8 0 1988
WINDHAM

City Council Report
Re: Delinquent Assessment Lawsuits
March 18, 1999

On January 31, 1995, the City of Sacramento through its special legal counsel commenced Sacramento County Superior Court Action No. 95AS00547, to foreclose on delinquent 1915 Improvement Bond Act assessments on Sacramento County Parcel APN 215-0241-008 for 1993/94 delinquencies. Subsequent to the filing of the lawsuit, the property owner became delinquent on the 1994/95, 1997/98, and 12/10/98 installments. Although the property owner has tendered the amount of the delinquent assessments to the City, it continues to contest the City's right to recover its costs and attorney's fees under Streets & Highways Code Section 8831, claiming that the lawsuit was not specifically ordered by the Sacramento City Council.

On March 15, 1999, the trial court in Sacramento County Superior Court Action No. 95AS00547 stated its opinion that Streets & Highways Code Section 8830 requires that the Sacramento City Council separately order foreclosure of each delinquent installment on the subject parcel. Accordingly, this report recommends that the Sacramento City Council adopt a resolution ordering judicial foreclosure of all current and future delinquent assessments on Sacramento County Parcel APN 215-0241-008, and ratifying the filing and maintenance of Sacramento County Superior Court Action No. 95AS00547.

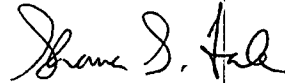
ENVIRONMENTAL CONSIDERATIONS: The subject of this report does not involve a project that requires compliance with the California Environmental Quality Act (CEQA), inasmuch as it does not involve an activity which may cause a direct or indirect change in the environment (Public Resources Code Section 21065).

POLICY CONSIDERATIONS: A Resolution ratifying and ordering the filing and maintenance of Sacramento County Superior Court Action No. 95AS00547 is consistent with City policy as enunciated in Resolution No. 92-530, and will permit the City of Sacramento to pursue all available judicial remedies against the delinquent property owner in connection with Sacramento County Superior Court Action No. 95AS00547.

City Council Report
Re: Delinquent Assessment Lawsuits
March 18, 1999

MBE/WBE: Since no goods or services are being purchased, this report does not impact the City's MBE/WBE policies.

Respectfully submitted,



SHANA S. FABER
Sr. Deputy City Attorney

RECOMMENDED FOR APPROVAL



William H. Edgar, City Manager

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION RATIFYING AND ORDERING JUDICIAL FORECLOSURE OF DELINQUENT ASSESSMENTS PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915 ON SACRAMENTO COUNTY APN 215-0241-008

WHEREAS, the CITY OF SACRAMENTO ("City") had conducted special assessment proceedings from time to time, resulting in the issuance and sale of improvement bonds pursuant to the provisions of the Improvement Bond Act of 1915 (California Streets and Highways Code Sections 8500 and following; hereafter referred to as the "1915 Act"); and

WHEREAS, pursuant to the 1915 Act, the City has duly and regularly issued and recorded the unpaid assessments, which assessment and each installment thereof and interest and penalties thereon constitute lien against the lots and parcels of land against which they are made, until the same are paid; and

WHEREAS, certain assessments and installments on Sacramento County APN 215-0241-008 had not been paid when due, and certain installments of those assessments may not be paid in the future; and

WHEREAS, under the provisions of Section 8830 of the Streets and Highways Code of the State of California, this City Council is authorized, not later than four (4) years after the due date of the last installment of principal, to order the same to be collected by an action brought in the Superior Court to foreclose the lien of those assessments; and

WHEREAS, pursuant to certain 1915 Act bond issues, the City is required by covenant with the bondholders authorized by Streets & Highways Code Section 8830(b) to institute judicial foreclosure proceedings; and

- 4 -

FOR CITY CLERK USE ONLY

RESOLUTION NO. _____

DATE ADOPTED: _____

WHEREAS, under the provisions of Section 8833 of the 1915 Act, when such foreclosure action is ordered, the county tax collector is to be credited upon the assessment roll with the amount charged on account of the assessments to be sued on and to be relieved of further duty in regard thereto; and

WHEREAS, on July 21, 1992, the Sacramento City Council adopted Resolution No. 92-530, which ordered the Sacramento County Treasurer-Tax Collector to return unpaid 1915 Act assessments in excess of \$1,000.00 as of July 1, 1993, and each July 1 thereafter, to the City of Sacramento to pursue judicial foreclosure; and

WHEREAS, the City has given written notice to the delinquent property owner(s) of Sacramento County APN 215-0241-008 of the City's intention to foreclose on delinquent assessments and of the increased costs and fees in the event that foreclosure proceedings must be commenced; and

WHEREAS, on January 31, 1995, the City through its special legal counsel commenced Sacramento County Superior Court Action No. 95AS00547, to foreclose on delinquent 1915 assessments on Sacramento County Parcel APN 215-0241-008 for 1993/94 delinquencies; and

WHEREAS, subsequent to the filing of the lawsuit, the property owner(s) became delinquent on the 1994/95, 1997/98, and 12/10/98 installments; and

WHEREAS, although the property owner(s) has tendered to the City the amount of the delinquent installments, it continues to contest the City's entitlement to costs and attorney's fees under Streets & Highways Code Section 8831;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO that:

SECTION 1. The City hereby ratifies and orders the filing and maintenance of Sacramento County Superior Court Action No. 95AS00547 for the purposes of foreclosing on the delinquent assessments listed on Exhibit A attached hereto and incorporated herein, and all future installments of those assessments which are not paid when due, including interest thereon, penalties, attorney's fees, and costs.

SECTION 2. The City Attorney's retention of special legal counsel Sherman & Feller to institute such action in the name of the City is hereby ratified.

FOR CITY CLERK USE ONLY

RESOLUTION NO. _____

DATE ADOPTED: _____

SECTION 3. All inquiries regarding payment of the delinquent assessments shall be forward to the City's special counsel.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO. _____

DATE ADOPTED: _____

EXHIBIT A

DELINQUENT ASSESSMENTS REQUIRING FORECLOSURE ACTION
AGAINST SACRAMENTO COUNTY APN 215-0241-008 IN
SACRAMENTO COUNTY SUPERIOR COURT ACTION NO. 95AS00547

<u>Year Delinquent</u>	<u>Delinquent Amount</u>
1993/94	\$30,638.24
1994/95	\$30,681.50
1997/98	\$15,419.42
12/10/98 Installment	\$12,418.75
TOTAL	\$89,157.91

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

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WHEREAS, pursuant to the 1915 Act, the City has duly and regularly issued and recorded the unpaid assessments, which assessment and each installment thereof and interest and penalties thereon constitute lien against the lots and parcels of land against which they are made, until the same are paid; and

WHEREAS, certain assessments and installments on Sacramento County APN 215-0241-008 had not been paid when due, and certain installments of those assessments may not be paid in the future; and

WHEREAS, under the provisions of Section 8830 of the Streets and Highways Code of the State of California, this City Council is authorized, not later than four (4) years after the due date of the last installment of principal, to order the same to be collected by an action brought in the Superior Court to foreclose the lien of those assessments; and

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FOR CITY CLERK USE ONLY

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