

File No. 110068

Committee Item No. 2

Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee Date: March 2, 2011

Board of Supervisors Meeting Date March 8 2011

Cmte Board

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Completed by: Victor Young

Date: February 25, 2011

Completed by: Victor Young

Date: 3-3-10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[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.

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;

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, T~~he 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 (h)g) 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.

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

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

7
8 Section 2. The Board of Supervisors authorizes the Assessor to recommend and the
9 Controller to pay a reward for information concerning underpayments of tax, as provided in
10 Administrative Code Sections 10.177-2 and 10.177-3, respectively, based on information
11 provided after February 16, 2011, the date when the Assessor's prior authorization expired,
12 and before the effective date of this ordinance.

13
14 Section 3. Unless the Board of Supervisors amends this ordinance to continue its
15 operation prior to the sunset of the Assessor's authority to recommend rewards, this
16 ordinance shall expire and the City Attorney shall cause it to be removed from the City's
17 codes.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:

22 
23 _____
24 STEPHANIE PROFITT
25 Deputy City Attorney

FILE NO.

LEGISLATIVE DIGEST

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

Ordinance amending Chapter 10 of the San Francisco Administrative Code by amending 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.

Existing Law

The California Constitution requires that real property be reassessed at its full cash value when it undergoes a change in ownership.

Amendments to Current Law

This ordinance authorizes the Assessor to recommend rewards for information related to the detection of underpayment of property tax owed to the City and County of San Francisco due to unreported changes in ownership.

Background Information

Because of difficulties in identifying changes of ownership of certain properties, some properties escape reassessment at full market value upon a change in ownership. The proposed ordinance authorizes the Assessor to recommend a reward to be paid out of 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 an unreported change in ownership. A person wishing to apply for a reward must file an application with the Assessor. If the Assessor determines that a reward is warranted he may recommend an amount of reward to the Board of Supervisors. Rewards are entirely in the City's discretion and there is in no circumstance the right to a reward. The recommended reward may be an amount up to ten percent of the increase in tax due to the information provided from the date of the unreported change of ownership to the date the information is provided but cannot be more than one hundred thousand dollars (\$100,000).

Upon review by the Office of the Controller, the Assessor is required to submit an annual report to the Board of Supervisors that sets forth any identifiable increase in property tax assessments and revenues resulting from the reward program. The Assessor's authority to recommend rewards under this ordinance shall sunset after five years unless the Board of Supervisors votes to continue the program for an additional period.

Item 2
File 11-0068

Departments:
Assessor-Recorder; Controller

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would amend Chapter 10, Sections 10.177-2 and 10.177-3 of the San Francisco Administrative Code, to modify and extend the Assessor-Recorder's Office's Real Estate Watchdog Program.

Key Points

- On February 7, 2006, the Board of Supervisors approved the creation of the Assessor-Recorder's Office's Real Estate Watchdog Program (File 05-1759). The Real Estate Watchdog Program authorizes the Assessor-Recorder's Office to recommend rewards to individuals who provide the City with information related to the underpayment of Property Taxes owed to the City, when the underpayment results from a change in property ownership. The reward would be paid to the referrer from the General Fund if such a reward is authorized by the Board of Supervisors in separate legislation.
- In five years of the Real Estate Watchdog Program, the Assessor-Recorder's Office has received 2 eligible referrals and 60 ineligible referrals of underpayment of Property Taxes, or a total of 62 referrals, resulting in the City collecting \$1,074,349 in outstanding Property Taxes and issuing one reward for \$66,600 from the City's General Fund.
- The sections of the Administrative Code authorizing the Real Estate Watchdog Program expired on February 16, 2011.
- The proposed ordinance would amend the Administrative Code to extend the Real Estate Watchdog Program for five years, beginning on the effective date of the proposed ordinance, streamline the program, and reduce the maximum allowable reward from \$500,000 to \$100,000.

Fiscal Impacts

- If a referral to the Real Estate Watchdog Program results in the collection of outstanding Property Taxes, the Assessor-Recorder's Office can recommend a reward up to an amount of 10 percent of the tax collected, with a modified maximum allowable reward of \$100,000. Any reward payable under the Real Estate Watchdog Program is subject to Board of Supervisors approval.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

Section 10.177-2 of the City's Administrative Code authorizes the Assessor-Recorder's Office to recommend a reward to be authorized by the Board of Supervisors payable from the General Fund for information leading to the detection of an underpayment of Property Taxes owed to the City and County of San Francisco when the underpayment results from a change of property ownership.

Section 10.177-3 of the City's Administrative Code requires the Controller to pay any reward authorized pursuant to Section 10.177-2 above, provided that (a) an application for such reward is filed in the Controller's Office, (b) the Assessor-Recorder's Office has recommended that the reward be paid on the application, and (c) the recommended reward amount is authorized by the Board of Supervisors.

BACKGROUND

The California Constitution generally limits annual increases in the assessed taxable value of real property to two percent of the property's adjusted base year value, but requires that real property be reassessed at its full cash value when that real property undergoes a change in ownership. Because of difficulties in identifying changes of ownership, particularly in commercial and industrial properties, some properties may escape reassessment at full market value upon a change in ownership. In particular, the transfer of commercial properties may not always be properly reported to the City, and therefore may result in underpayments of Property Taxes. By contrast, the transfer of residential properties requires that a deed be recorded and therefore such residential properties are less likely to be subject to underpayments of Property Taxes.

On February 7, 2006, the Board of Supervisors approved, as a pilot program, the creation of the Assessor-Recorder's Office's Real Estate Watchdog Program, for the five-year period from February 16, 2006 to February 16, 2011, by amending Chapter 10, Sections 10.177-2 and 10.177-3 of the San Francisco Administrative Code to authorize the Assessor-Recorder's Office to recommend rewards for information related to the detection of underpayment of Property Taxes owed to the City and County of San Francisco, when the underpayment results from a change in property ownership (File 05-1759).

Under the Real Estate Watchdog Program, individuals who provide information to the Assessor-Recorder's Office that leads to the detection of an underpayment of Property Taxes owed to the City, when the underpayment results from a change in property ownership, are eligible for a reward to be paid from the City's General Fund if rewards are authorized by the Board of Supervisors in separate legislation. According to the Controller's Office, the rewards are paid from the General Fund Reserve.

Under Section 10.177-2(C) of the Administrative Code, an individual is eligible for rewards under the Real Estate Watchdog Program when:

1. The referrer files an application for reward along with supporting documentation in the Controller's Office;
2. The Assessor certifies that the unreported change of property ownership will result in a reassessment leading to the actual collection of the Property Taxes or a lien or other device that is reasonably likely to result in the collection of the additional Property Taxes;
3. The referrer must not have participated in concealing the unreported transfer; and
4. The information furnished must be information previously unknown to the Assessor-Recorder.

The Assessor-Recorder's Office makes a determination on each application filed with the Controller and transmitted by the Controller to the Assessor-Recorder's Office. If the Assessor-Recorder's Office determines that a reward is warranted, the Assessor-Recorder's Office then submits such reward information to the Board of Supervisors for approval.

In accordance with Section 10.177-2 of the City's Administrative Code, the amount of the reward cannot exceed ten percent of the amount of the underpayment of the Property Taxes collected by the City from the date of the unreported change in property ownership to the date the information is provided to the Assessor-Recorder's Office, up to a maximum reward amount of \$500,000.

Results of the Real Estate Watchdog Program, to Date

Table 1 below summarizes the results of the Real Estate Watchdog Program, to date.

Table 1: Results of the Real Estate Watchdog Program, Between February 17, 2006 and February 16, 2011

Total years of the program	5
Number of referrals received	62
Referrals received prior to FY 2009-10	55
Referrals received in FY 2009-10	7
Referrals received in FY 2010-11	0
Number of ineligible referrals	60
Number of eligible referrals	2
Value of additional Property Tax Collections from the two eligible referrals	
Case #1	\$1,070,898
Case #2	<u>3,451</u>
Total	\$1,074,349

According to Mr. Mark McLean of the Assessor-Recorder's Office, the bulk of the 60 ineligible referrals were ineligible because those property transfers were already known to the Assessor-Recorder's Office.

The City has issued one reward under the Real Estate Watchdog Program. On October 28, 2008, the Board of Supervisors approved a reward in the amount of \$66,600 (File 08-1216) to the referrer of Case #1, as shown in Table 1 above. According to Mr. Mclean, "the referrer of Case #1 was eligible for a reward of up to \$83,251, which equaled ten percent of the increase in tax due from the date of the unreported change in ownership to the date the information was provided. The Assessor recommended that the referrer be awarded eighty percent of the maximum allowable which equals \$66,600." Mr. McLean noted that the referrer of Case #2, who was eligible for a reward of up to \$345, opted not to receive a reward, although the City received an additional \$3,451 in Property Taxes, based on the information provided.

Recommendations of the Controller and the Assessor-Recorder's Office

Administrative Code Section 10-177-2(h) requires "Not later than six months prior to the expiration of the Assessor's authority ... the Controller and the Assessor shall confer and recommend to the Board of Supervisors whether the Assessor's authority to recommend rewards under this ordinance should continue for an additional period." According to Ms. Julie Van Nostern, Chief Counsel for the City Attorney's Office, in order for the Board of Supervisors to consider whether or not to extend the existing Real Estate Watchdog Program, which expired on February 16, 2011, the Controller's Office and Assessor-Recorder's Office must file a formal written recommendation for such extension of the program.

On February 15, 2011, the Assessor-Recorder and the Controller's Office submitted a memorandum to the Clerk of the Board of Supervisors recommending that the Board of Supervisors reauthorize and extend the Real Estate Watchdog Program.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend Chapter 10, Sections 10.177-2 and 10.177-3 of the San Francisco Administrative Code, to modify and extend the Assessor-Recorder's Real Estate Watchdog Program. Specifically, the proposed ordinance would (a) streamline the Program by having the Assessor-Recorder's Office assume responsibilities that are currently assigned to the Controller's Office, as summarized in Table 2, below, (b) reduce the maximum authorized reward amount from \$500,000 to \$100,000, which is payable to individuals who provide the City with information regarding underpayment of Property Taxes, if the City collects such additional Property Taxes as a result of information provided to the City regarding a change in property ownership, and (c) extend the Real Estate Watchdog Program by five years from the effective date of the proposed ordinance.

As noted in Table 1 above, for the five year period between February 16, 2006 and February 16, 2011, the City collected additional Property Taxes of \$1,074,349 under the existing Real Estate Watchdog Program.

The existing Assessor-Recorder's Office's Real Estate Watchdog Program expired on February 16, 2011. Ms. Angela D'Anna of the Assessor-Recorder's Office advises that the proposed ordinance would extend the Real Estate Watchdog Program by an additional five years, commencing on the effective date of the approval of the proposed ordinance.

As shown in Table 2 below, the five year extension of the Assessor-Recorder's Office's Real Estate Watchdog Program would also result in Assessor-Recorder's Office assuming the following duties now handled by the Controller's Office:

Table 2: Streamlining of Responsibilities Under the Proposed Ordinance

Tasks	Current Responsible Department	Responsible Department Under Proposed Ordinance
Receive Real Estate Watchdog Program referral application	Controller	Assessor-Recorder
Forward application to the Assessor-Recorder's Office	Controller	(this task would be eliminated)
Submit Annual Reports about the Real Estate Watchdog Program to the Board of Supervisors	Controller and Assessor-Recorder	Assessor-Recorder
Make formal recommendation to the Board of Supervisors whether the Real Estate Watchdog Program should be extended in the future	Controller and Assessor-Recorder	Assessor-Recorder

FISCAL IMPACTS

As shown in Table 1 above, under the Assessor-Recorder's Office's Real Estate Watchdog Program, the City realized \$1,074,349 in additional Property Tax revenues between February 16, 2006 and February 16, 2011. Under the existing program, one reward, in the amount of \$66,600, was paid from the City's General Fund. Because the number and value of future potential referrals are unknown, the Assessor-Recorder's Office cannot estimate the potential future additional Property Tax revenues to be realized as a result of the proposed extension of the Real Estate Watchdog Program.

According to Mr. McLean, the Assessor-Recorder's Office does not have a precise projection of hours and the related costs required to administer the Real Estate Watchdog Program. However, the Assessor-Recorder's office estimates two hours of total staff time per referral would be needed, or an average of approximately 20 staff hours per year, based on an estimated 10 referrals per year. Both Mr. McLean and Ms. D'Anna note that the Real Estate Watchdog Program has not resulted in significant administrative costs to either the Assessor-Recorder's Office or the Controller's Office, both of which have administered the Program within existing staff resources. As summarized in Table 2 above, under the proposed ordinance, the Controller's

Office's current administrative responsibilities would either be transferred to the Assessor-Recorder's Office or eliminated. Ms. D'Anna estimates that the additional Assessor-Recorder's Office responsibilities can be absorbed with existing staff. Under the proposed ordinance, the Controller's Office would only have (a) general oversight responsibilities and (b) under Section 10.177-3 of the City's Administrative Code, the Controller's Office would continue to have the responsibility for paying any Real Estate Watchdog Program reward that is recommended by the Assessor-Recorder's Office and authorized by the Board of Supervisors.

As noted above, under the proposed ordinance, the maximum reward payable under the Assessor-Recorder's Real Estate Watchdog Program would be reduced from \$500,000 to \$100,000. In the February 15, 2011 memorandum to the Clerk of the Board, the Assessor and the Controller stated "It is our belief that a reward of up to \$100,000 will sufficiently incentivize watchdogs to report high-value commercial and residential property escapes."

As noted above, the one reward that has been paid by the City to date under the Real Estate Watchdog Program, was \$66,600, which is well below both the previous maximum reward amount of \$500,000 and the proposed maximum reward amount of \$100,000.

RECOMMENDATION

Approve the proposed ordinance.