

BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA

IN THE MATTER OF:

RESOLUTION INTERPRETING RATE AND)
METHOD OF APPORTIONMENT OF) RESOLUTION NO. 12-043
SPECIAL TAX FOR COMMUNITY FACILITIES)
DISTRICT NO. 2006-1 (FIRE PROTECTION)
SERVICES), COUNTY OF AMADOR, STATE)
OF CALIFORNIA)

WHEREAS, the Board of Supervisors (the "Board") of the County of Amador (the "County") conducted proceedings under the Mello-Roos Community Facilities Act of 1982 (the "Act") to establish Community Facilities District No. 2006-1 (Fire Protection Services), County of Amador, State of California (the "CFD"), to authorize the levy of a special tax (the "Special Tax") upon the land within the CFD, the proceeds of which are to be used to finance certain public fire protection and paramedic services; and

WHEREAS, the specifics of the Board's authority to levy the Special Tax are contained in the "Rate and Method of Apportionment and Manner of Collection of the Special Tax" (the "RMA") attached as Exhibit D to the Board's Resolution No. 2007-11 adopted on January 9, 2007; and

WHEREAS, the RMA provides that the Special Tax shall be levied annually "according to the tax liability determined by the Board, through the application of the rate and method of apportionment of the Special Tax;" and

WHEREAS, paragraph 7 of the RMA provides: "Interpretations may be made by Resolution of the Board for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to CFD No. 2006-1;" and

WHEREAS, the definition of "Taxable Property" in the RMA states that Taxable Property is both "Residential Property" and "Non-Residential Property;" and

WHEREAS, the definitions of both Residential Property and Non-Residential Property in the RMA state that to be such, property must be "Developed Property" as defined in the RMA; and

WHEREAS, the definition of Developed Property in the RMA excludes any building for which the building permit was issued on or before January 1, 2006; and

WHEREAS, County Ordinance No. 1640 (the “Ordinance”) specifies circumstances under which, in the absence of other arrangements made to mitigate the impacts of development on the need for fire protection services, developing property must annex to the CFD; and

WHEREAS, it was always the Board’s intent that only the change in property use triggering the requirement to annex to the CFD under the Ordinance, and changes in use occurring thereafter, would be subject to the Special Tax, and that pre-existing uses that had not required annexation – including buildings for which building permits were issued *after* January 1, 2006 – would not be subject to the Special Tax; and

WHEREAS, the County permits property owners annexing to the CFD to meet the requirements of the Ordinance by executing certain documents (the “Waiver and Consent Documents”) which the County records against the property to be annexed, and which empower the County and County officials to effect the annexation of that property to the CFD at the County’s convenience; and

WHEREAS, for administrative convenience and efficiency, the County conducts annexation proceedings only periodically, and includes in those proceedings all properties for which it possesses fully executed Waiver and Consent Documents, and thus actual annexation for a particular parcel may take place sometime after the Waiver and Consent Documents for that parcel have been executed and recorded; and

WHEREAS, Section 3 of the RMA states: “Multiple Land Use Classes; In some instances an Assessor’s Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor’s Parcel shall be the sum of the Maximum Special Taxes for all Land Use Classes located on that Assessor’s Parcel;” and

WHEREAS, the Board desires to clarify that both residential and non-residential buildings – constructed pursuant to building permits issued prior to the earlier to occur of the annexation of the parcels containing such buildings to the CFD or the recordation of the Waiver and Consent Documents for such parcels – comprise a Land Use Class that is not, by virtue of the annexation of such parcels to the CFD, thereby made subject to the Special Tax; and

WHEREAS, the Board is fully advised in this matter;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Declaration of the Board. The Board hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to public affairs of the County and that the statements, findings and determinations of the County set forth above are true and correct.

SECTION 2. Interpretation of the RMA. Pursuant to Section 7 of the RMA, the Board hereby clarifies that both residential and non-residential buildings – constructed pursuant to building permits issued prior to the earlier to occur of the annexation of the parcels containing

such buildings to the CFD or the recordation of the Waiver and Consent Documents for such parcels – comprise a Land Use Class under the RMA that is not subject to the Special Tax.

SECTION 3. Renunciation of Any Power to Levy the Special Tax in Such Instances. The Board hereby relinquishes any power it might be thought to have to levy the Special Tax on residential and non-residential buildings constructed pursuant to building permits issued prior to the earlier to occur of the annexation of the parcels containing such buildings to the CFD or the recordation of the Waiver and Consent Documents for such parcels; and the Board states that it intends that all persons may rely on this determination, that the County shall be bound by this determination in perpetuity, and that the County shall be estopped, and intends for itself to be estopped, from ever contending to the contrary.

SECTION 4. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 22nd day of May, 2012, by the following vote:

AYES: Richard M. Forster, Theodore F. Novelli, John Plasse and Brian Oneto

NOES: None

ABSENT: Louis D. Boitano


Richard M. Forster, Vice-Chairman

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

