Submission from Larry Kaplan for
May 24, 2016 Property Taxpayers' Bill of Rights Hearing

From: larrykaplan11@gmail.com [mailto:larrykaplan11@gmail.com] On Behalf Of Larry Kaplan
Sent: Wednesday, May 18, 2016 4:01 PM
To: Sutter, Mark
Subject: 2016 Taxpayers' Bill of Rights Hearings

Mark,

Per our telephone conversation today, here are some details about me being penalized for a property tax payment that was tendered prior to the delinquency date and rejected.

1) $17,000 was due by 12-10-2016 per the 2015/16 tax bill;
2) The Assessor stipulated to reduce the $2,942,700 value to $2,084,000 on 11/5/16.
3) On 11/25/15 I tendered $13,000 to the Tax Collector as my estimate on to be amended tax bill.
4) On 12/2/15 the Tax Collector returned my check with a note saying "short payment."
5) I was out of the country from 12/4 - 12/15.
6) On 12/22/16 I tendered the $17,000 per the original tax bill + 10% penalty of $1700.

The Santa Cruz County Treasurer denied my request for waiver of the $1,700 penalty.

The tax bill was $17,000, but I tendered the lesser amount of $13,000 based on my correct estimate that the amended tax bill would be less than $13,000. In fact, the amended tax bill from the Assessor was $12,305. I chose to tender the lesser amount because the tax assessor and I agreed to a lower appraised amount which the assessor confirmed to me in writing and would be +/- $4,000 less.

Instead, the Tax Collector returned my check while I was out of the country. On my return, after the December 10th delinquency date, I immediately paid the entire $17,000 plus the 10% penalty.

I appealed to the Treasurer and she rejected it.

My conclusions are:

1) When the Assessor confirms the stipulated value to the taxpayer, she must inform the taxpayer in the stipulation that the Treasurer's policy require the entire pre-stipulated tax bill be paid in full and that a refund or credit will be issued later;

2) The Treasurer is wrong in penalizing me because.

a) Procedural Due Process is violated

The tax bill says no partial payments are accepted. However, taxpayers are entitled under the Taxpayer's Bill of Rights to clear language describing their responsibilities. In my case, the circumstance of having a reduced appraisal could reasonably lead me to believe that I would not be penalized as long as I paid at least the amount of the future amended tax bill. There is no way I should have known that I would be penalized. I believe if I bought a $50,000 piano and returned it on the last day of my Visa billing period, and received the $50,000 bill the following

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week from Visa, I would not be penalized for a $ 50,000 late payment when I chose not to send the $50,000 to Visa. Or, if I were penalized, a phone call to Visa would result in a waiver of the penalty.

b) Substantive Due Process vs. Administrative Convenience

1) Administrative Convenience: It is easier for the Treasurer to administer the collection and accounting of tax payments under the rule that taxpayers must pay the amount on the tax bill. The burden of accounting for payments different than the billing is acknowledged.

2) Substantive Constitutional Due Process requires there be a very important reason to penalize a taxpayer. Once the Assessor lowered my appraised value, the County no longer had the right to enforce payment of the original tax bill. She would not be allowed to, for example, start a foreclosure proceeding based on the original tax bill. That amount was no longer due. She would have to issue the new lesser tax bill and show I defaulted on it. Therefore, since I tendered the amount due on the upcoming tax bill, substantive due process is violated by penalizing me on a bill that the Tax Collector could no longer levy on.

Thanks for your attention to this matter.

Larry Kaplan
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