

AGENDA COVER MEMORANDUM

Memorandum Date: November 9, 2009

Agenda Date: November 24, 2009

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$11,630 TO MARK SIMEONE AND ANITA ZACHARY, FORMER OWNERS OF RECORD (MAP #20-03-28-32-01600, 842 CHESTNUT AVE., COTTAGE GROVE)

1. **PROPOSED MOTION:** THE BOARD MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$11,630 TO MARK SIMEONE AND ANITA ZACHARY, FORMER OWNERS OF RECORD (MAP #20-03-28-32-01600, 842 CHESTNUT AVE., COTTAGE GROVE)

2. **AGENDA ITEM SUMMARY:**

Mr. Simeone and Ms. Zachary are the former owners of record of the subject property which was foreclosed upon by the County for non-payment of property taxes in October, 2009. They wish to repurchase the property back from the County pursuant to ORS 275.180 and LM 21.425(4) which provides for selling foreclosed property back to the former owner. The proposed purchase price is \$11,630. This represents all taxes owing, including those which would have been due for the current year had the property remained on the tax roll, interest and penalties that were owed on the property at the time the County acquired title as well as an additional 10% of that amount to cover Property Management expenses (this insures that the taxing districts will receive the full amount of taxes owed on the property).

3. **BACKGROUND/IMPLICATIONS OF ACTION:**

- A. **Board Action and Other History**

The subject property consists of a 1,150 square foot single family dwelling in fair - good condition on a 70' x 100' lot. The dwelling was initially constructed in 1890 and has a current market value per the Assessor of \$140,000. The property was the residence of the former owners at the time of foreclosure.

B. Policy Issues

ORS 275.180 provides for selling foreclosed property back to the owner of record at any time but for not less than the amount of taxes, interest and penalties owing on the property at the time the County acquired title plus 6% interest thereon until the time the property is sold.

Lane Manual 21.425(4) qualifies ORS 275.180 by requiring one of three conditions to exist for a sale to the former owner of record. Those conditions are that: (a) the property was the residence of the former owner at the time of the foreclosure; (b) an error was made by the Assessor in placing the property on the foreclosure list; (c) the former owner was physically or mentally incapacitated during the foreclosure period.

C. Board Goals

The sale of the property would be consistent with the Board's goals to return tax foreclosed property to the tax roll.

D. Financial and/or Resource Considerations

The \$11,600 purchase price includes taxes that would have been paid this year (the foreclosure removed the property from this year's tax roll) and an additional 10% above the statutorily required minimum to cover the county's cost for processing the sale.

After reimbursement to the County for costs associated with the management of foreclosed property, the remaining revenue from sales is disbursed to all the taxing districts in a manner similar to the disbursement of property taxes.

E. Analysis

Lane Manuel (LM) provides for selling property back to a former owner provided the property was their residence. The Board is not obligated to sell a foreclosed property back to the former owner. In the past, the Board has always sold property back to the former owner when the requirements of Lane Manual have been met and has done so for the minimum required by statute however, the Board is not obligated to sell the property for the minimum required by statute but can sell for any amount above the required minimum.

F. Alternatives/Options

1. Sell the property for the minimum amount pursuant to ORS. 275.180 plus taxes which would have been owed for the current year plus 10% thereon. A total of \$11,630.
2. Sell the property for an amount greater than #1 above.

3. Reject selling the property back to the former owner and offer the property at a Sheriff's sale which would yield greater consideration (\$100,000 +). Pursuing this option would require having Mr. Simeone and Ms. Zachary vacate the premises.

V. TIMING/IMPLEMENTATION

The matter should be resolved as soon as possible so Property Management staff can proceed accordingly (close a sale with the former owners or proceed with evicting the former owners and selling the property at auction).

VI. RECOMMENDATION

It is recommended that option 1 be pursued. Mr. Simeone and Ms. Zachary have met the requirements of a sale to the former owner.

VII. FOLLOW-UP

Upon the Board's approval, the Property Management Officer will proceed with closing the sale.

VII. ATTACHMENTS

Board Order
Quitclaim Deed
Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING THE SALE
OF SURPLUS COUNTY OWNED REAL
PROPERTY FOR \$11,630 TO MARK SIMEONE
AND ANITA ZACHARY, FORMER OWNERS OF
RECORD (MAP #20-03-28-32-01600, 842
CHESTNUT AVE., COTTAGE GROVE)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to sell the following real property which was acquired through tax foreclosure, to wit:

The West 70.00 feet of Lot 2, Block 2 of D. G. MCFARLAND'S 4TH EDITION TO COTTAGE GROVE, as platted and recorded in Volume 2, Page 35, Lane County Oregon Plat Records, Lane County, Oregon.

WHEREAS said real property is owned by Lane County and not in use for County purposes, and sale of said property would benefit Lane County by its return to the tax roll, and

WHEREAS Mark Simeone and Anita Zachary are the former owners of record of said property at the time it was foreclosed upon and

WHEREAS said real property was the residence of said former owners at the time it was foreclosed upon and

WHEREAS, the \$11,630 sale price reflects all taxes, interest and penalties that were owing at the time of foreclosure and otherwise fulfills the amount required for a sale to a former owner pursuant to ORS 275.180

IT IS HEREBY ORDERED that pursuant to Lane Manual 21.425(4), ORS 275.180, and ORS 275.275 the above described real property be sold to Mark J. Simeone and Anita M. Zachary, that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(268-5570270-446120)	\$11,200
General Fund	(124-5570260-436521)	430

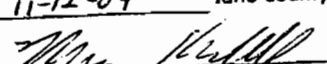
IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 2009.

APPROVED AS TO FORM

Date 11-12-09 lane county

Peter Sorenson, Chair, Board of County Commissioners


IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR
\$11,630 TO MARK SIMEONE AND ANITA ZACHARY, FORMER OWNERS OF RECORD (MAP #20-03-28-32-
01600, 842 CHESTNUT AVE., COTTAGE GROVE)

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, pursuant to Order No. _____ of the Board of County Commissioners of Lane County, releases and quitclaims to:

Mark J. Simeone and Anita M. Zachary

all its right, title and interest in that real property situated in Lane County, State of Oregon, described as:

The West 70.00 feet of Lot 2, Block 2 of D. G. MCFARLAND'S 4TH EDITION TO COTTAGE GROVE, as platted and recorded in Volume 2, Page 35, Lane County Oregon Plat Records, Lane County, Oregon (map # 20-03-28-32-01600).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007

The true and actual consideration for this transfer is: \$11,630.00

This space reserved for recording sticker

LANE COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2009 personally appeared _____,

_____, _____, _____, _____,

_____, County Commissioners for Lane County, and acknowledged the foregoing instrument to be their voluntary act. Before me:

After recording, return to/taxes to:
Mark J. Simeone and Anita M. Zachary
842 Chestnut Ave.
Cottage Grove, OR 97424

Notary Public for Oregon
My Commission Expires _____

