DATE: January 14, 2021

TO: Honorable Board of Supervisors
Jeffrey V. Smith, County Executive

FROM: Margaret Olaiya, Acting Director of Finance

SUBJECT: Response to Inquiry into the County’s Lockbox Operations

On January 7, 2021, Supervisor Cindy Chavez forwarded an email to the Finance Agency from a constituent with concerns and questions about the lockbox used by the Department of Tax and Collections for collecting property taxes. The email is attached to this report for reference.

Background information leading to the utilization of a lockbox service outside the County

In 2014, Finance Agency’s contractor BancTec, Inc, notified the County of its intent to terminate the maintenance and support of the County’s in-house equipment that processed check payments. The Agency sought other solutions to meet the pending termination of services. The decision was made to utilize the lockbox services provided by the County’s banker. The only secure lockbox facility that could accommodate the size and volume of bills processed by the Agency was outside the County – City of Industry, in Southern California. The other lockbox facilities located at Fremont and San Francisco were inadequate to handle the County’s volumes. The Agency decided to utilize the lockbox facility provided by the bank and obtained Board approval on 6/21/2016 to add the City of Industry lockbox as an additional payment location to process property tax payments.

Implementation of business process changes to manage the lockbox

The Finance Agency implemented a new business process workflow to process all checks received at the lockbox facility and post payments into the County’s bank accounts on the same day the checks are processed. The business rules and workflows are in accordance with the Revenue and Taxation (R&T) Code which establishes the times and dates a property tax payment becomes delinquent from their due dates (Sections 2617, 2704, 2618, 2705). Timely payments of property taxes are required to avoid penalties and cost (Section 2512 (a) & (b)). A postmarked proof of timely payment on the part of the taxpayer is required under the R&T Code for the payment to be processed as timely on the due dates of December 10, April 10, or August 31. Mail travel period is discussed every year as part of the preparation for the peak collections. The Agency sought confirmation from the USPS on the length of time to mail letters between the County and the City of Industry. The USPS confirmed it takes three (3) days for mails to reach the City of Industry from the County of Santa Clara. The Agency applies a 3-day mail travel period to accommodate this out of County operations.

System application of the R&T Code Due Dates

At 12:01 am on December 10, April 10, or August 31, the property tax system goes into a maintenance mode to apply penalty and cost on payments not received by 5 pm my mail or by midnight if paid electronically. Penalties and costs are only reversed through the penalty appeal process, or when a taxpayer submits proof of timely payment, or the Agency has a scanned copy of the mailing envelope showing a timely postmark, even when the mail was delivered several weeks later by the USPS.
Issues Raised by Supervisor Chavez

**Issue:** The concern raised by Mr. Calhoun appears to be one that may be systemic. I think it is challenging for constituents when they get a response like the one below from a general email rather than an employee they can contact. It appears that Mr. Calhoun’s email will result in these late fees being reversed, but he brings up an important question.

Response from the Agency: This is a customer service concern. All employees have been directed to include their names when corresponding with the public.

**Issue:** In moving our collection location from Hedding to Southern California have we caused taxpayers to unknowingly incur these late fees? Is the Administration considering reversing fees that others may have incurred this year?

Response: The Agency implemented the USPS Informed Delivery and Visibility services in 2020 to track the movement of tax bills and payments. This tracking information is used to reverse any penalty and cost charged after the due date, where applicable. In 2020, USPS handled unprecedented mailing operations due to the elections and the holidays. The Agency was mindful of these delays in property tax payments and adjusted the business rules accordingly. Taxpayers can mail payments to the Hedding location, as well as 852 N 1st Street, in addition to the lockbox facility. These addresses are published online. As a natural course of business, late payments are reviewed to remove any penalty and cost assessed if the payment was determined to be timely. Taxpayers have recourse to the Penalty Appeal process to contest any late charges. If the error is on the County’s part, or due to late delivery by USPS, penalties and costs are reversed.

**Issue:** Was this issue anticipated when that change was made?

Response: Yes. In anticipation of this issue, the mail travel period from the county to the City of Industry was added to the workflow. This has helped reduce taxpayers’ need to submit a penalty appeal to the Tax Collector. With the added use of the Informed Delivery system as described above, the Agency can now track payments sent in the mail-return envelopes provided to each taxpayer, allowing the Agency to directly adjust penalties and costs that are otherwise automatically applied by the property tax system.

**Issue:** Can we in the future account for the longer distance and provide more time prior to assessing the late fees?

Response: Yes. The mail tracking system will continue to assist taxpayers in tracking payments sent to the County; this information is accessible on DTAC’s website. The mail travel period is adjusted based on USPS operations. The Agency will continue to work closely with USPS to adjust its operations to account for USPS operations.

**Issue:** Dr. Smith, given COVID and the documented challenges of the US Postal Service, I would appreciate the Board receiving information on this issue.

Response: This information can be provided to the Board of Supervisors in an off-agenda memorandum if the need arises.

cc:
- Chief Board Aides
- Miguel Marquez, Chief Operating Officer
- James R. Williams, Chief County Counsel
- Megan Doyle, Clerk of the Board of Supervisors
- Mary Ann Barrous, Agenda Review Administrator
Alan and Margaret,

The concern raised by Mr. Calhoun appears to be one that may be systemic. I think it is challenging for constituents when they get a response like the one below from a general email rather than an employee they can contact. It appears that Mr. Calhoun’s email will result in these late fees being reversed, but he brings up an important question.

In moving our collection location from Hedding to Southern California have we caused taxpayers to unknowingly incur these late fees? Is the Administration considering reversing fees that others may have incurred this year?

Was this issue anticipated when that change was made?

Can we in the future account for the longer distance and provide more time prior to assessing the late fees?

I have included James as often these timelines are the result of state legislative language.

Dr. Smith, given COVID and the documented challenges of the US Postal Service, I would appreciate the Board receiving information on this issue.

Thank you.

Cindy

-----

Cindy Chavez
County of Santa Clara Board of Supervisors, District Two
70 West Hedding Street, San Jose, CA 95110
(T) (408) 299-5020 (F) 408 295-8642

Like Cindy on Facebook
Follow Cindy on Twitter
Connect with Cindy on LinkedIn
Dear Supervisors,

Although my specific case is being resolved, **look at the absolute absurdity this County policy will create**, by not following the law.

*The system is programmed to add late fees 3 days after the due date (called travel days) and unfortunately this year that included Sunday although Monday was the true last travel day. The result is all payments arriving on Dec 14 automatically have a late fee added despite when they were actually mailed.*

**ISSUES:**
1) It doesn't follow the law, which is based on the date of the postmark.
2) It doesn't account for not all mail being delivered in the time estimated by the USPS website as 3 days.
3) It doesn't account for Sundays
4) It doesn't account for the first installment is near the holiday mail and therefore slower than normal
5) It doesn't include mailing time for out of state property owners, such as NY

My payment was mailed 33 hours before the deadline and was considered to be 24 hours late. That is a 57 hour discrepancy.

**SUGGESTION #1:** Follow the law, or build in some reasonable cushion to account for mailing from New York and Sunday

**SUGGESTION #2:** Proactive remove all late fees assessed on payments received on or prior to Friday 12/11/2020 before more taxpayers get surprised.

--
Richard Calhoun, Broker/REALTOR  DRE# 00818990
CreeksideRealty@gmail.com
Serving Silicon Valley buyers or sellers since 1981
REALTOR of the Year Santa Clara County 1995
408-926-0365 Direct and/or via Zoom
Dear Mr. Calhoun

The system is programmed to add late fees 3 days after the due date (called travel days) and unfortunately this year that included Sunday although Monday was the true last travel day. The result is all payments arriving on Dec 14 automatically have a late fee added despite when they were actually mailed.

I will enter an internal appeal to have your late fees reversed based on your email.

Fiscal Services Division
County of Santa Clara
Department of Tax and Collections
408-808-7949

Good morning,

Is this something that the Accounting team can help with? If not please let me know and I will direct this to the correct unit. Thanks for your help in advance!

Luis Rodriguez
Santa Clara County Department of Tax and Collections (DTAC)
70 West Hedding St., 6th Fl., East Wing
San Jose, CA 95110-1767
Phone: (408) 808-7900
Fax: (408) 279-0357

www.scedtac.org
Ellenberg, Supervisor <supervisor.ellenberg@BOS.SCCGOV.ORG>
Subject: [EXTERNAL] Prop tax late charge

290-
xxxx HOMESTEAD
SANTA CLARA CA 95051

I am requesting to look at the postmark on the envelope that contained both installments of property tax for the above property. The reason for this request is, I believe the County is incorrectly showing a late charge assessed. The reasons for my belief are:

I, Richard Calhoun, made a special trip to the post office to make this mailing. At approximately 3:12 PM on December 9, 2020, an envelope with first class stamp postage affixed was handed to a postal worker at the post office located at 1085 McGinness Ave San Jose, CA 95127. This was a full day early to specifically to avoid the potential of the County claiming the payment was late.

The check issuer Linda Kincaid, wrote the check on December 9th and is aware of my intentions of going directly to the post office after getting the check from her on December 9th at about 3 PM.

After the mailing, I notified the property owner that I just mailed the tax payment via email:

From: Richard Calhoun, REALTOR Creekside Realty <creeksiderealty@gmail.com>
Date: Wed, Dec 9, 2020 at 3:25 PM
Subject: FYI prop taxes
To: Aristóteles Pritsopoulos <adprits@sbcglobal.net>

Hi Ari,

Just letting you know that I mailed both installments of property tax on Homestead minutes ago. It will likely take a couple days to post as you now mail to a process center in City of Industry in S CA.

I will drop off the $211 difference the next time I am in the area and then let you know that is done. I will likely just leave under the doormat.
--
Richard Calhoun

I own three properties in Santa Clara County: 996 Lovell Ave, 16185 Yona Vista and 3627 Morrie Dr that were all paid timely by electronic methods.

The check was deposited by the County vendor on Monday 12/14/2020. Yet the County is claiming the check was mailed on or after December 11th. December 12th and 13th were the weekend. Considering the distance mailed, and the status of the United States Postal Service; the County’s timeline is very difficult to believe.

The absurdity of the County to apparently maintain that this payment was mailed late is beyond my ability to believe.
I historically make my payments in person and was honoring the County's preferred payment method of mailing to Southern California for processing and in exchange the County is now demanding I pay an extra $611 and to add additional insult, the County is doing this during COVID shelter in place restrictions when they are asking people to avoid going to places such as the Tax Collector's Office.

Respectfully,

--

Richard Calhoun, Broker/REALTOR  DRE# 00818990
CreeksideRealty@gmail.com
Serving Silicon Valley buyers or sellers since 1981
REALTOR of the Year Santa Clara County 1995
408-926-0365 Direct and/or via Zoom
==
Interactive local real estate market conditions Zoom meeting every Saturday at 9 AM

Click image to enlarge. Happy to explain these and other slides in detail.
PowerPoint slides (55) on current market conditions through midnight Dec 19th