

THE WILLIAMSON ACT

What is it?

April 21, 2015

SUMMARY

The Williamson Act provides property owners a tax reduction when they contract with the County for agricultural land use.

The County may have lost considerable tax revenue because of the failure to mail out the Reporting Statement regarding continued land use. By law this is required every two years; the last mailing was in 2009.

The Grand Jury notes the Reporting Statement contains the following statement, "Failure to fill out this form with the County constitutes a breach of your contract."

The Grand Jury is recommending that the Agricultural Commissioner comply with Mendocino County Code §22.08.090 and resume timely mailing of the Reporting Statements to insure compliance with the Code.

The Grand Jury notes that a process is underway to replace the County's Williamson Act Ordinance with Policies and Procedures.

BACKGROUND

The Grand Jury, in exercising its oversight of local government, chose to look at the Williamson Act program.

APPROACH

The Grand Jury interviewed the Assessor, representatives from Planning and Building, Farm Bureau, and the Agricultural Commissioner. The Grand Jury looked at statistics, maps and charts. The Grand Jury also attended a meeting of the Resource Lands Protection Committee.

FACTS

In 1965, the State of California enacted the California Land Conservation Act, also known as the "Williamson Act," for the preservation of a maximum amount of a limited supply of prime agricultural land. This is necessary to the State's economic resources and to discourage premature and unnecessary conversion of prime agricultural land to urban uses.

The Mendocino County Ordinance was enacted in 1970. (County Code §22.08).

The Williamson Act allows landowners to voluntarily contract to limit use of their property to agricultural purposes if it is in an agricultural preserve. In exchange, they receive a property tax discount of 10 to 95 percent. Application fees to participate in the Williamson Act are estimated to be \$2,048.

There are a total of 4,481,920 acres of land in Mendocino County; 465,181 acres are included in 662 Williamson Act contracts as of December 2014. In fiscal year 2014-15, the discount reduced collectable real property tax revenues by over \$1.3 million, according to the Assessor.

In a recent action by the Board of Supervisors, the time period for the Williamson Act contract discount was lowered from ten to nine years. The reduction in time results in a savings of approximately \$450,000 for the County in fiscal year 2014-15, according to the Board of Supervisors. Precisely, the \$450,000 is an increase of tax assessments on the real property formerly included in the Williamson Act.

Title 22 of Mendocino County Code, Land Usage, §22.08.090, states a Williamson Act landowner shall file a Reporting Statement to Maintain Agricultural Preserve Eligibility (Reporting Statement) every two years. The Agricultural Commissioner sends out this Reporting Statement by registered mail.

The most recent mailing occurred in 2009.

The Reporting Statement says:

“Failure to fill out and file this form with the County constitutes a breach of your contract and the county will either: (1) Seek a court order requiring you to comply with the contract or (2) Treat such failure as material breach, terminate the contract and have the county Assessor value the property by sales data pursuant to Proposition 13, and tax it as if it were not subject to an ‘enforceable restriction.’ In addition, the County may sue whether for compensatory damages or for liquidated damages, a sum equal to 25 percent of the property’s fair market value without the enforceable restriction.”

Failure to return this Reporting Statement can result in the termination of the contract. The County will mail the non-filing land owner a non-renewal form by registered mail after the Board of Supervisors approves the list of non-filers.

In response to the 2009 Reporting Statement mailing, many Williamson Act participants did not return the forms within the required 30 day period. Further, there was significant non-compliance in failing to respond to the reports in any manner.

As a result of the mailing in 2009, over 50,000 acres were removed from the contracts authorized by the Williamson Act.

The tax benefit for non-renewed properties is gradually phased out over a nine year period. The immediate opt-out fee is estimated to be \$3,258. This would bypass the nine year phase-out of the property tax benefit. This has occurred once since 1999.

There are three types of properties:

- Type 1 – Prime Agricultural Land (row crops or one animal unit per acre and income of \$200 per acre)
- Type 2 – Range Land (one animal unit per 40 acres)
- Type 3 – Preservation property (Recreation and Open Space or Forestry, 100 acre minimum)

In 2014, the Resource Lands Protection Committee, composed of the County Assessor, Agricultural Commissioner and representatives from Planning and Building and County Counsel, started writing Policies and Procedures to replace the current Ordinance. The proposed Policies and Procedures would require proof of revenue.

The Land Resource Committee intends to take the proposed Policies and Procedures to the following communities: Potter Valley, Round Valley, Willits, Point Arena, Hopland, Fort Bragg, and Boonville. The intent is to inform the public and receive feedback regarding the Policies and Procedures.

The Committee's proposed Policies and Procedures must receive final approval by the Board of Supervisors following a public hearing. In order to send out the new Reporting Statements for 2015-16, this action must occur prior to September 1, 2015.

FINDINGS

- F1. The Reporting Statement to Maintain Agricultural Preserve Eligibility provides the County with information enabling evaluation of whether continued participation in the Williamson Act is appropriate. The Statement says "Failure to fill out and file this form with the County constitutes a breach of your contract..."
- F2. When the County does not enforce this provision it could allow participants to receive an undeserved tax benefit. This could cause a loss of tax revenue to the County.
- F3. In the past, if a property owner did not return the Reporting Statement, either the Assessor's Office, Planning and Building Department or the Agricultural Commissioner's Office would look at aerial photography maps, perform visual confirmation or use other means to determine compliance. However, that is not what the Ordinance states.
- F4. The Reporting Statement to Maintain Agricultural Preserve Eligibility has not been sent out in six years. Because the statements have not been sent out, the Grand Jury believes there is a substantial possibility that a large number of parcels, which would have been removed, are still in the Williamson Act. This may have resulted in a loss of tax revenue for the County.
- F5. The annual Williamson Act property tax reduction is anywhere from 10 to 95 percent for a participant.
- F6. In 2014, the Board of Supervisors shortened the length of the Williamson Act contract from ten to nine years.
- F7. The Policies and Procedures, currently being developed, would require proof of revenue which will show appropriate property use under the Williamson Act.
- F8. For the timely mailing of the 2015-16 Reporting Statement, the Board of Supervisors must act on the proposed Policies and Procedures prior to September 1, 2015.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. the Agricultural Commissioner send the Reporting Statement, by registered mail, every two years as mandated by Code §22.08.090 (F1, F4, F5)
- R2. the County enforce the sanctions for failure to file the Reporting Statement. (F1, F2)
- R3. the Policy and Procedures, being written by the Resource Lands Protection Committee, be completed and taken before the Board of Supervisors for action in time to allow for the mailing of the Reporting Statement by September 1, 2015. (F1, F7, F8)

RESPONSES

Pursuant to Penal Code §933.05, responses are required from the following individuals:

- Assessor, Mendocino County (All findings and all recommendations)
- Agricultural Commissioner, Mendocino County (All findings and all recommendations)

Pursuant to Penal Code §933.05, responses are required from the following governing bodies:

- Board of Supervisors, Mendocino County (All findings and all recommendations)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Pursuant to Penal Code §933.05, responses are requested from the following individual:

- Director, Planning and Building Department (All findings and all recommendations)

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
