

Grand Jury Report

RESPONSE FORM

Grand Jury Report Title : THE WILLIAMSON ACT

Report Dated : 4/21/15

Response Form Submitted By:

Charles Morse

Response MUST be submitted, per Penal Code §933.05, no later than:

7/20/15

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- I (we) agree with the Findings numbered:
F1, F2 ,F3, F4, F5 ,F6 ,F7 (w/ comment)
- I (we) disagree wholly or partially with the Findings numbered below, and have ***attached, as required***, a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F4,F8

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- The following Recommendation(s) have been implemented and ***attached, as required***, is a summary describing the implemented actions:

- The following Recommendation(s) have not yet been implemented, but will be implemented in the future, ***attached, as required*** is a time frame for implementation:

- The following Recommendation(s) require further analysis, and **attached as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

R1, R2, R3

- The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable, **attached, as required** is an explanation therefore:

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 4

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.co.mendocino.ca.us/grandjury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail (word documents or scanned pdf file format) to:

- The Grand Jury Foreperson at: grandjury@co.mendocino.ca.us
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Charles Morse

Title: Agricultural Commissioner/Sealer of Weights and Measures

Signed: Charles Morse

Date: 6-17-15

Response to Grand Jury Report

Report Title: THE WILLIAMSON ACT

Report Date: April 21, 2015

Response by: Chuck Morse, Agricultural Commissioner

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...”

Agree.

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.

Agree with comment. If the County does not strictly enforce the referenced provision, it is possible that some participants that did not respond are not meeting the minimum standards to qualify for a Williamson Act contract. If this were the case, the County would not be receiving all tax revenue it would be entitled to.

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.

Agree with comment: While the County’s current ordinance does not include a provision for County staff to independently determine eligibility for a Williamson Act contract compliance, the former Ag. Commissioner, along with staff from other County departments, did undertake a certain level of independent investigation to determine whether property owners were in compliance with the eligibility qualifications. My understanding is that if that review did not provide evidence to establish eligibility, the property owner was sent a notice of non-renewal, at which point the property owner had the opportunity to respond with evidence of eligibility.

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.

Agree in part, disagree in part. The process for reviewing the results from the 2009 reporting statements took over a year to complete, with notices of non-renewal being sent in both 2010 and 2011. Through this process, the County departments involved in administering the County's Williamson Act program identified the need to reshape the County's laws governing the Williamson Act. They began contemplating changes to the program in 2012 and became more focused on that effort in 2013 and 2014. These departments did not believe it appropriate to process another round of reporting statements while contemplating changes to the program. In addition, if reporting statements had been sent out in 2012 or any year since, it is uncertain if a large number of parcels would have been removed after reviewing the returned reporting statements.

F5 – The annual Williamson Act property tax reduction is anywhere from 10 to 95 percent for a participant.

Agree with comment. The Agricultural Commissioner's office does not deal in the area of or have expertise in tax rates. This is the area of the Assessor's office. In working with other county departments, I have become aware that the tax benefit can vary widely. I do not aware of the specific percent range referenced above.

F6 – In 2014, the Board of Supervisors shortened the length of the Williamson Act contract from ten to nine years.

Agree. The Board started making these determinations in 2010 and has done so annually ever since.

F7 – The Policies and Procedures, currently being developed, would require proof of revenue which will show appropriate property use under the Williamson Act.

Agree with clarification. The draft Policies and Procedures would require proof of income and/or expenditures to prove eligibility for a Williamson Act contract. The draft Policies and Procedures were presented to the public in a series of open meetings to gather public comment between April 6 to April 11. The draft Policies and Procedures were reviewed by the Planning Commission on June 4, which made certain revisions to the draft Policies and Procedures. Their recommendation was that the Board of Supervisors adopt an ordinance amending Chapter 22.08 of the County Code and adopt a resolution approving the proposed Policies and Procedures. The Planning Commission also provided direction to staff to research and provide the Board of

Supervisors with additional information regarding qualifying income levels. A date for review by the Board of Supervisors has not been set.

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.

Disagree. There is no deadline for the mailing of the reporting statement or when Board of Supervisor action on the proposed Policies and Procedures must take place. Based on the process for the 2009 reporting statements, the County estimates that if a reporting statement is mailed to contract holders, the County would have time to review the statements and begin preparing notices of non-renewal the following year. For example, if the County mailed reporting statements in the Fall of 2015, it anticipates that it would be able to review the statements and, where warranted, issue notices of non-renewal to contract holders in 2016, which could go into effect as of January 1, 2017.

RECOMMENDATIONS:

R1 – The Agricultural Commissioner send the Reporting Statement, by registered mail, every two years as mandated by Code §22.08.090 (F1, F4, F5)

The recommendation requires further analysis. The draft Policies and Procedures are moving forward and appear to be on a course for consideration by the Board of Supervisors in the Fall of 2015 (see **F7** above). If the draft Policies and Procedures are adopted, the eligibility requirements to remain in the program and, by necessity, the reporting statement will be changing. The draft Policies and Procedures that the Planning Commission has forwarded to the Board contain the recommendation that reporting statements be sent by the Assessor's Office every 4 years. As different eligibility requirements, a different reporting statement, a different office responsible for the sending of those reporting statements, and a different minimum time requirement for the sending of those statements may be forthcoming (if the draft Policies and Procedures are adopted by the Board), sending the current reporting statement by the Agricultural Commissioner's office at this time would appear unproductive. A date for review by the Board of Supervisors has not been set.

R2 – The County enforce the sanctions for failure to file the Reporting Statement. (F1, F2)

The recommendation requires further analysis. The proposed Williamson Act Policies and Procedures provide in Section 12.2 that those properties for which a questionnaire is not returned may be subject to an investigation by the Assessor's Office regarding whether the property is in compliance with the Williamson Act contract, the Act itself, the Policies and Procedures and other laws, regulations and guidelines. The draft Policies

and Procedures were sent to the Board of Supervisors. A date for review by the Board of Supervisors has not been set, however, the draft Policies and Procedures appear to be on a course for consideration by the Board of Supervisors in the Fall of 2015.

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)

The recommendation requires further analysis. The proposed Williamson Act Policies and Procedures went before the Planning Commission on June 4, 2015. The Planning Commission made certain revisions to the Policies and Procedures and recommended that the Board of Supervisors adopt an ordinance amending Chapter 22.08 of the County Code and adopt a resolution approving the proposed Policies and Procedures. The Planning Commission also provided direction to staff to research and provide the Board of Supervisors with additional information regarding qualifying income levels. The draft Policies and Procedures were sent to the Board of Supervisors. The draft Policies and Procedures appear to be on a course for consideration by the Board of Supervisors in the Fall of 2015. Any mailing of the reporting statements following adoption of the Policies and Procedures will be performed by the Assessor's office.

Signature: Charles Morse Date: 6-17-15