

Response to Grand Jury Report



Report Title: **THE WILLIAMSON ACT**

Report Date: **April 21, 2015**

Response by: **Susan Ranochak, Assessor-Clerk Recorder**

Findings

I (we) agree with the findings numbered: 6

I (we) disagree wholly or partially with the findings numbered: 1

Attach a statement specifying the findings or portions of the findings that are disputed, and include an explanation of the reasons therefor.

Recommendations

Recommendations numbered xxx have been implemented.

Attach a statement describing the implement actions.

Recommendations numbered xxx have not yet been implemented, but will be implemented in the future.

Attach a statement with the schedule for implementation(s).

Recommendations numbered 1, 2 & 3 require further analysis.

Attach an explanation, and the scope and parameters of the analyses or studies, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

Recommendations numbered xxx will not be implemented because they are not warranted or are not reasonable.

Attach an explanation.

Signature:  Date: 6/19/15

Number of pages attached: 5

**MENDOCINO COUNTY BOARD OF SUPERVISORS' RESPONSE TO GRAND
JURY REPORT TITLED:
THE WILLIAMSON ACT – What is it?**

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 clarification. 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. In such a 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 clarification. The County’s current ordinance does not include a provision for County staff to independently determine eligibility for a Williamson Act contract. However, members of County departments did undertake a certain level of independent investigation to determine whether property owners were in compliance with the eligibility qualifications. 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 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. County departments involved in administering the County's Williamson Act program 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 non-renewed after reviewing the returned reporting statements.

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

Section 423(d) of the California Revenue and Taxation Code defines the current taxable value to be placed on the roll for land under a Williamson Act contract. The code states that the current taxable value cannot exceed the lowest of: (1) the current restricted value (determined via the income method for open-space properties); (2) the current fair market value calculated pursuant to Section 110 of the Revenue and Taxation Code; or (3) the factored base year value, as if unrestricted, calculated pursuant to Section 110.1 of the Revenue and Taxation Code and more commonly known as the Proposition 13 value.

The year the taxable value per Section 423(d) is placed on the roll will determine the range between the restricted value and the Proposition 13 value; the more recent in time the acquisition, the greater the difference. In other words a property purchased today will have a higher base year value as opposed to a property purchased 30 years ago. When comparing today's value with the restricted value the difference could be as high as 95% as opposed to comparing a 1985 base year value with a restricted value where the difference could be as low as 10%. Current fair market value comparisons will create similar differences between the restricted value and today's value.

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

Agree with clarification. The Government Code was amended in 2010 to allow a county to make a determination, in any year in which the subventions are less than one-half of the county's actual foregone property tax revenue, to reduce the term of Williamson Act contracts from 10 years to 9 years. The County first made this determination in 2010 and has made it each year since, including 2014.

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 reviewed by the Planning Commission on June 4, which made certain revisions to the draft 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. A date for review by the Board of Supervisors has not been set. The draft policies and procedures are moving forward and appear to be on a course for consideration by the Board in the fall of 2015.

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 specific 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 September 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. Under the proposed revision to the County's Williamson Act regulations, County Code section 22.08.090 will be replaced by Section 12.2 of the draft Policies and Procedures. The draft Policies and Procedures as of April 2015 did not set a specific time frame for reporting statements to be sent to contract holders. The Planning Commission approved a recommendation that reporting statements be sent by the Assessor's Office every 4 years. 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. The draft policies and procedures are moving forward and appear to be on a course for consideration by the Board in the fall of 2015.

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. The draft policies and procedures are moving forward and appear to be on a course for consideration by the Board 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. A date for review by the Board of Supervisors has not been set. The draft policies and procedures are moving forward and appear to be on a course for consideration by the Board in the fall of 2015.