



1 Petitioner Hiuyan “Tina” Lam petitions for a writ of mandate under California Code  
2 of Civil Procedure section 1094.5, or alternatively, under section 1085, directed to  
3 Respondents The Board of Supervisors of the City and County of San Francisco (the  
4 “Board”), The Office of the Treasurer & Tax Collector of the City and County of San  
5 Francisco (the “Treasurer-Tax Collector”), and the Office of the Assessor-Recorder of the  
6 City and County of San Francisco (the “Assessor-Recorder”) ordering (1) the Board to set  
7 aside its decision to rescind the lawful tax sale of the Presidio Terrace Common Area  
8 (“PTCA”) to Ms. Lam, and (2) the Treasurer-Tax Collector and the Assessor-Recorder to  
9 take all actions necessary to undo the rescission and reinstate Ms. Lam’s ownership  
10 interest in the PTCA.

11 By this verified petition, Ms. Lam further alleges as follows:

12 **INTRODUCTION**

13 1. It is unambiguous and well-known that in California, property owners must  
14 pay their property taxes whether or not they actually receive a tax bill in the mail. (See  
15 Rev. & Tax Code, § 2610.5.) Complying with this basic legal requirement is not a problem  
16 for the vast majority of California citizens: as the Treasurer-Tax Collector remarked in this  
17 case, over 99 percent of property owners in the State of California pay their property tax  
18 bills on time and in full, including the thousands of bills that are returned as undeliverable.

19 2. Yet for over *seventeen years*<sup>1</sup>, Real Party in Interest the Presidio Terrace  
20 Association (“PTA”) was among the less than one percent of California property owners  
21 who ignored this basic requirement. For this extended period of time, the PTA failed to  
22 pay a cent of property taxes on the Presidio Terrace Common Area (the “PTCA”), a parcel  
23 for which it was the record owner, simply because it claims it did not receive a bill from  
24 the city. As the PTA acknowledged in the proceedings below, it now appears that the bills  
25 were sent to an outdated mailing address because the PTA never notified the Treasurer-

26 \_\_\_\_\_  
27 <sup>1</sup> The Treasurer-Tax Collector indicated in his submissions to the Board that its office  
28 did not have records dated earlier than 2000. However, a 2003 notice included in the same  
submission indicates that the property was declared tax-defaulted in 1998.

1 Tax Collector that the mailing address for its accountant had changed (and that its tax bills  
2 should therefore be directed to a new address). But California law is clear and it does not  
3 relieve taxpayers of their obligation to pay property taxes simply because they do not  
4 receive a bill; it was incumbent on the PTA to determine what taxes it owed, pay those  
5 taxes, and if necessary, investigate why it was not receiving those bills. The PTA did not  
6 do any of those things.

7       3. As it is required to do whenever a taxpayer fails to pay property taxes for  
8 five years or more, at the February 11, 2015 hearing for the Board's Budget and Finance  
9 Committee, the Treasurer-Tax Collector proposed a public sale of the tax-delinquent  
10 PTCA along with other tax-delinquent parcels. After the proposal was approved by the  
11 committee, the full Board then considered a motion on February 24, 2015 introduced by  
12 the committee chair to approve the proposed sale and passed it unanimously. The  
13 Treasurer-Tax Collector then conducted the sale in accordance with all statutory  
14 requirements, including by (i) searching for all parties in interest both by itself and through  
15 third-party title search companies, (ii) determining that no other parties in interest appeared  
16 in available records through those searches, and then (iii) sending the statutorily-required  
17 notice to the PTA's "last known" mailing address. That certified mail notice was returned  
18 to the city's Repromail Department on or around March 9, 2015, among *almost nine*  
19 *hundred* other undelivered notices. Of course, the PTA now contends that in the short  
20 period of time between March 9, 2015 and mid-April 2015 (when the auction was  
21 conducted), the Treasurer-Tax Collector should have singled out the PTA for special  
22 treatment by noticing a single piece of undelivered mail and tracking down the correct  
23 address. The Board should not have abided that request for such special treatment.

24       4. During the public tax sale, held by an online auction in April 2015, Ms. Lam  
25 successfully bid for and purchased the PTCA. It is undisputed that for over two full years,  
26 Ms. Lam's ownership of the PTCA did not disrupt the lives of the Presidio Terrace  
27 residents whose own property neighbored the PTCA. There is no dispute that Ms. Lam  
28 fully respected their neighbors' rights, including all recorded easements. In fact, for those

1 two full years *after* the sale of the property, the PTA and the residents of Presidio Terrace  
2 continued their lives *without even knowing* that the parcel had been sold.

3         5.         Around May 30, 2017, when residents of Presidio Terrace learned that the  
4 PTCA’s ownership had been transferred to individuals who were not members of their  
5 exclusive, affluent community, they, for the first time, expressed outrage. Refusing to  
6 accept the consequences of the PTA’s own tax delinquency, they instead hired a lawyer  
7 and asked the Board to make a determination “that the property should not have been  
8 sold,” and to rescind the sale under Revenue and Tax Code section 3731(a). After  
9 receiving briefing and hearing presentations from the parties and members of the public,  
10 the Board conditionally concluded that the Treasurer-Tax Collector should have tried  
11 harder to find the PTA’s correct address after the notice of tax sale was returned as  
12 undeliverable—a requirement that appears to have been invented by the Board for the  
13 benefit of the wealthy Presidio Terrace residents.

14         6.         Two weeks later, in a short two-page motion containing written findings in  
15 support of the conditional decision, the Board determined “that the property should not  
16 have been sold” and formally adopted a motion rescinding the sale.<sup>2</sup> The Treasurer-Tax  
17 Collector implemented the Board’s final decision the next day, providing the Assessor-  
18 Recorder with a document rescinding the tax deed that reflected Ms. Lam’s ownership of  
19 the PTCA.

20         7.         This action challenges the Board’s decision and asks the Court to set aside its  
21 unsupported findings and conclusion and reinstate Ms. Lam’s ownership of the PTCA. The  
22 Board abused its discretion by inventing a legal requirement that the Treasurer-Tax  
23 Collector investigate every single piece of undelivered mail related to the tax auction of  
24 low-value vacant lots that appears nowhere in any applicable written statute. It also abused  
25 its discretion by basing its decision on an unsupported finding that the Treasurer-Tax  
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27 <sup>2</sup> The Board’s final written findings in support of the written decision are attached hereto  
28 as Exhibit 1 to the Declaration of Ray S. Seilie (“Seilie Decl.”).

1 Collector was *actually aware* of the purported fact that its office had the wrong address for  
2 the PTA when it moved forward with the 2015 tax auction. But there is a complete lack of  
3 evidence in the record that the Treasurer Tax-Collector had such knowledge. This Court  
4 should aside the Board’s decision and order the Treasurer-Tax Collector and Assessor-  
5 Recorder to take all necessary steps to undo its consequences and reinstate Ms. Lam as the  
6 lawful owner of the PTCA.

7 **THE PARTIES**

8 8. Petitioner Hiuyan “Tina” Lam is, and was at all relevant times, a California  
9 resident who resides in the City of San Jose.

10 9. Respondent the Board of Supervisors of the City and County of San  
11 Francisco is the legislative body of the City and County of San Francisco, political  
12 subdivision of the State of California. In addition to its legislative authority, the Board has  
13 authority under Revenue and Tax Code section 3731 to rescind sales of tax-defaulted  
14 property sold pursuant to Revenue and Tax Code sections 3691, *et seq.* if, after a hearing,  
15 it determines that the property “should not have been sold.”

16 10. Respondent the Office of the Treasurer and Tax Collector of the City and  
17 County of San Francisco is a local governmental agency and is responsible for, *inter alia*,  
18 selling tax-defaulted property at auction and implementing the Board’s decisions on  
19 rescinding sales of that property.

20 11. Respondent the Office of the Assessor-Recorder of the City and County of  
21 San Francisco is a local governmental agency and is responsible for, *inter alia*,  
22 maintaining public records of taxable property.

23 12. Real Party in Interest the Presidio Terrace Association is the homeowner’s  
24 association for the residents of Presidio Terrace. Before 2015, it was the record owner of  
25 the Presidio Terrace Common Area, the parcel of land at issue in this petition and in the  
26 underlying Board proceeding.

27 **JURISDICTION AND VENUE**

28 13. This Court has original jurisdiction over this action pursuant to Article VI,

1 Section 10 of the California Constitution and Code of Civil Procedure sections 187, 1085,  
2 and 1094.5.

3 14. Venue for this action is proper in the Superior Court for the County of San  
4 Francisco because Respondents, Real Parties in Interest, and the PTCA are all located in  
5 San Francisco County.

### 6 STATEMENT OF FACTS

#### 7 The PTA's Long History of Tax Delinquency

8 15. The 2015 tax auction was not the first time the PTA lost ownership of the  
9 PTCA because of its own tax delinquency. In 1978, the PTA failed to pay taxes for the  
10 parcel and its ownership reverted to the state.<sup>3</sup> In 1985, before the state auctioned off the  
11 PTCA, the PTA learned about its tax delinquency and redeemed the parcel, which was re-  
12 conveyed back to the PTA. The redemption document was mailed to the PTA at 47 Kearny  
13 Street, 6th Floor, San Francisco, California 94108 ("47 Kearny Street").

14 16. Between 1985 and 2015, all tax bills for the PTCA were sent to 47 Kearny  
15 Street. The PTA fully paid all property taxes on the PTCA owed through 1996. However,  
16 the PTA stopped paying those taxes beginning in 1998, for the 1997-1998 fiscal year. The  
17 PTCA was declared to be tax-defaulted as of June 30, 1998. As required by statute, after  
18 five years had passed, on August 15, 2003, the Treasurer-Tax Collector issued a Notice of  
19 Power to Sell Tax-Defaulted Property.

20 17. The PTA continued not to pay taxes on the PTCA, and in 2009, the  
21 Treasurer-Tax Collector issued a second Notice of Power to Sell Tax-Defaulted Property,  
22 this time for unpaid taxes from the 2003-2004 fiscal year. A third notice was prepared by  
23 the Treasurer-Tax Collector in 2014, which led to sale at issue in this action.

24 18. The Treasurer-Tax Collector's secured rolls indicate that no taxes have been  
25 paid for the PTCA since 2000. But in connection with the underlying proceedings, the

26  
27 <sup>3</sup> Before 1984, tax-defaulted property was deemed "sold to the state" and was auctioned  
28 by the Treasurer-Tax Collector if not redeemed. Beginning in 1985, the process was  
streamlined to permit the Treasurer-Tax Collector to sell the property directly.

1 Treasurer-Tax Collector did not produce any records from before 2000. Nothing in the  
2 record indicates that any taxes were paid for the PTCA since 1998, when the property was  
3 first declared tax-defaulted.

4 19. Under the Revenue and Tax Code, it is each taxpayer's responsibility to  
5 update the tax assessor (in this case, the Treasurer-Tax Collector) about circumstances that  
6 could change the names or addresses recorded on its tax rolls. (See, e.g., Rev. & Tax Code,  
7 § 90 [requiring "[a]ssessees" to "report change[s] in ownership information to the  
8 assessor"]; Rev. & Tax Code, § 480 [requiring "transferee[s]" to file "signed change in  
9 ownership statement[s]"].)

10 20. Moreover, under Revenue and Tax Code section 2610.5, "[f]ailure to receive  
11 a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties  
12 imposed by this code." As the Treasurer-Tax Collector told the Board, even though it  
13 received thousands of returned undeliverable tax bills every year, most of those bills were  
14 still paid on time.

### 15 **The 2015 Tax Sale**

16 21. Starting in 2014, the Treasurer-Tax Collector began its efforts to identify  
17 potential parties in interest to the tax-defaulted properties that would be sold at the auction  
18 eventually held in April 2015 by following the procedures described in the State of  
19 California's County Tax Sale Procedural Manual. It first conducted a search of the  
20 Assessor-Recorder's database, which contains owner information and their addresses of  
21 record. It also retained two vendors—Old Republic National Title Insurance Company  
22 ("Old Republic") and Harmony—to conduct a title search for each and every parcel up for  
23 auction. These efforts did not reveal any parties in interest to the PTCA other than the PTA  
24 itself.

25 22. Although the PTA's Covenants, Conditions, and Restrictions ("CC&Rs")  
26 stated that each Presidio Terrace resident was entitled to an easement over the PTCA, the  
27 CC&Rs did not mention or reference the PTCA's recorded block and lot number. As a  
28 result, both the Assessor-Recorder's system and the outside title search vendors were

1 unable to identify any easement holders as additional parties in interest, despite the  
2 Treasurer-Tax Collector's best efforts.

3 23. On February 11, 2015, the Board's Budget and Finance Committee prepared  
4 and recommended for adoption Resolution No. 49-15, which, if adopted, would empower  
5 the Treasurer-Tax Collector to sell each of the 544 parcels identified on a list of tax-  
6 defaulted property that included the PTCA.

7 24. On February 23, 2015, the Treasurer-Tax Collector mailed a Notice of Sale  
8 of Tax-Defaulted Property addressed to the PTA at 47 Kearny Street, informing the PTA  
9 of its rights as a party in interest. In connection with the 2015 tax auction, the Treasurer-  
10 Tax Collector sent a total of 1,480 notices through certified mail as required by Revenue  
11 and Tax Code section 3701. 58 percent of those notices (868) were returned as  
12 undelivered.

13 25. For *occupied* tax-defaulted parcels, the Treasurer-Tax Collector took  
14 additional steps (as required by Revenue and Tax Code section 3704.7) to attempt to  
15 directly contact the owner-occupants of each tax-defaulted property and, if possible, avoid  
16 displacing them from their primary residence. The PTCA was properly classified as a  
17 vacant lot because it is not a "primary residence." However, even if it were an occupied  
18 property, the law is clear that "[n]o transfer of title shall be invalidated by reason of failure  
19 to comply with the requirements of" section 3704.7. (Rev. & Tax Code, § 3704.7.)

20 26. On February 24, 2015, the Board voted 11-0 to adopt Resolution 49-15. The  
21 final version of the resolution contained, *inter alia*, a finding by the Board that "[t]he San  
22 Francisco Tax Collector has complied with all the statutory prerequisites for selling tax-  
23 defaulted property at public auction."

24 27. As required by Revenue and Tax Code section 3702, the Treasurer-Tax  
25 Collector then published the complete auction list once a week for three successive weeks  
26 in the San Francisco Examiner on March 16, 2015; March 22, 2015; and March 26, 2015.  
27 It also posted the list on its publicly accessible website on March 16, 2015.

28 28. From the time the Board approved the sale of the PTCA at auction until the



1 property was actually sold, the Treasurer-Tax Collector continually checked its payment  
2 records to determine if any of the parcels listed for auction had become current on their  
3 taxes. 74 such parcels were paid in full and redeemed before the auction began. The PTCA  
4 was not among them.

5 29. The tax auction was conducted online between April 17 and 20, 2015  
6 through Bid4Assets, a company that runs an online auction system. The final auction list  
7 was posted on the Bid4Assets website starting two weeks prior to the auction.

8 30. During the auction, 57 tax-defaulted properties received bids. The PTCA  
9 received 140 bids from eight unique bidders. Ms. Lam was the highest bidder and paid  
10 \$90,100 to purchase the PTCA. The PTCA was deeded to her on April 24, 2015, and a  
11 corrected final deed reflecting her ownership of the property was recorded in August 2015.

12 31. On or around July 2015, after the successful bidders paid for their parcels,  
13 the Treasurer-Tax Collector prepared notices of excess proceeds and sent them to the prior  
14 owners of the property. It also published notices in the San Francisco Examiner on July 5,  
15 2017; July 13, 2017; and July 19, 2015. Under Revenue and Tax Code section 4675,  
16 parties had one year from the date of the recording of the new owner's deed to claim  
17 excess proceeds. The PTA did not file a claim for excess proceeds from the sale of the  
18 PTCA.

19 32. Since 2015, Ms. Lam has made all required tax payments for the PTCA on  
20 time.

21 **Ms. Lam's Ownership of the PTCA and the PTA's Refusal to Accept the**  
22 **Consequences of Its Own Tax Delinquency**

23 33. In the two years following Ms. Lam's purchase of the PTCA, her ownership  
24 of the parcel did not in any way disrupt or complicate the lives of Presidio Terrace  
25 residents. Ms. Lam did not in any way attempt to interfere with the recorded easements on  
26 the property or otherwise create difficulty for the neighborhood. No one in the  
27 neighborhood complained about (or were likely even aware of) the new owners. Indeed, as  
28 the PTA admitted during the underlying proceedings, *it did not even know that ownership*

1 *of the PTCA had changed* until the middle of 2017.

2 34. After learning about the change in ownership for the first time, the residents  
3 of Presidio Terrace rejected the idea that other California residents who did not reside in its  
4 affluent, exclusive residential community should have been permitted to own the PTCA  
5 even after the PTA failed to pay taxes on the property for almost two full decades. On July  
6 11, 2017, counsel for the PTA asked the Board to schedule a hearing to consider  
7 rescinding the sale of the PTCA to Ms. Lam.

8 35. On September 5, 2017, the Board approved Motion No. M17-125, which  
9 directed its clerk to schedule a hearing to consider rescinding the sale of the PTCA.  
10 Because the Board had not previously conducted a hearing under section 3731, it did not  
11 have established procedures in place for the introduction and consideration of arguments  
12 and evidence. Its motion provided for a briefing schedule and structured argument. Ms.  
13 Lam, the PTA, and the Treasurer-Tax Collector each submitted letter briefs and exhibits.

14 36. The Board held a hearing on the motion on November 28, 2017. During the  
15 hearing, counsel for both Ms. Lam and the PTA presented argument, as did José Cisneros,  
16 the city's treasurer. Among other things, Mr. Cisneros told the Board that his office had  
17 taken all legally necessary steps to attempt to give notice to the PTA and potential parties  
18 in interest, including by retaining outside vendors to perform title searches. He added that  
19 the PTA's CC&Rs were not picked up by any of the searches because the document  
20 contained no references whatsoever to the lot and block number associated with the PTCA.

21 37. After hearing several hours of comments and argument, the Board voted 7-4  
22 to pass Motion No. M17-181, which conditionally rescinded the sale of the PTCA pending  
23 the preparation of written findings.

24 38. Soon after the November 28, 2017 meeting, Supervisor Mark Farrell, a  
25 member of the Board who voted in favor of rescission, revealed that the stated reason for  
26 rescission—the purported lack of notice to the PTA—may have been a pretext for a vote  
27 based on his apparent and unexplained personal animus against Ms. Lam. In an interview  
28 with the San Francisco Chronicle, Supervisor Farrell attacked the four board members who

1 sided with Ms. Lam, dismissing her family as “out-of-town speculators.” (Seilie Decl., Ex.  
2 2, at pp. 3-4.) Later that week, in another interview with the San Francisco Chronicle,  
3 Supervisor Farrell stated that Ms. Lam and her husband were “bottom-feeding pirates  
4 attempting to extort and hold San Francisco residents hostage.” (Seilie Decl., Ex. 3, at p.  
5 4.)

6 39. Supervisor Farrell’s public personal attack was an unwelcome surprise to  
7 Ms. Lam. Neither the briefing submitted by the PTA nor the discussion at the November  
8 28, 2017 hearing suggested that the PTA was seeking rescission because of any  
9 wrongdoing by Ms. Lam. Nor is there any evidence that Ms. Lam did anything but comply  
10 fully with all legal requirements in connection with her purchase of the PTCA, including  
11 the requirement to pay property taxes that the PTA had ignored for almost two decades.

12 40. On or around December 7, 2017, Ms. Lam received a draft of the Board’s  
13 written findings in support of its decision to rescind the sale of the PTCA. On December  
14 11, 2017, Ms. Lam submitted a letter to the Board requesting that the Board reconsider its  
15 decision to rescind the sale in light of the apparent misconception in the proposed findings  
16 that the Treasurer-Tax Collector ever “receiv[ed] confirmation” of the returned  
17 undelivered notice of the 2015 tax auction. The letter also expressed concern about  
18 Supervisor Farrell’s irrelevant personal attacks on Ms. Lam and her husband.

19 41. On December 12, 2017, the Board passed Motion No. M17-205, which  
20 adopted as final its two-page written findings regarding the rescission. The final version  
21 that the Board passed was identical to the proposed version.

## 22 **Legal Standard**

23 42. Code of Civil Procedure section 1094.5(a) permits this Court to issue a writ  
24 setting aside a decision made by “a local agency.” The Board is a “local agency” under  
25 Government Code section 54951, which defines a “local agency” as “a county, city,  
26 whether general law or chartered, city and county, town, school district, municipal  
27 corporation, district, political subdivision, or any board, commission or agency thereof, or  
28 other local public agency.”

1           43. Code of Civil Procedure section 1094.5(b) permits this Court to inquire into  
2 whether the Board “has proceeded without, or in excess of, jurisdiction; whether there was  
3 a fair trial; and whether there was any prejudicial abuse of discretion.” That section further  
4 provides that “[a]buse of discretion is established if the respondent has not proceeded in  
5 the manner required by law, the order or decision is not supported by the findings, or the  
6 findings are not supported by the evidence.” (*Ibid.*)

7 **The Board’s Conclusion that the PTCA Should Not Have Been Sold at the 2015**  
8 **Auction Is Not Supported By Its Findings**

9           44. The Board’s decision should be set aside because it abused its discretion by  
10 concluding that the PTCA “should not have been sold” at the 2015 tax sale even though  
11 that conclusion was not supported by its own findings. (Code Civ. Proc., § 1094.5, subd.  
12 (b) [“Abuse of discretion is established if . . . the order or decision is not supported by the  
13 findings.”].)

14           45. The Board’s written decision only references a single statutory provision  
15 concerning the notice and sale process: Revenue and Tax Code section 3701, which  
16 defines the steps that the Treasurer’s Office must take to provide notice to parties in  
17 interest. But the decision states that the Treasurer’s Office *complied* with section 3701,  
18 *explicitly finding* that “the Treasurer-Tax Collector provided notice of the auction by  
19 various methods . . . *as required by California Revenue and Taxation Code, Section 3701.*”  
20 (Seilie Decl., Ex. 1 at p. 2, italics added.)

21           46. The Board’s finding that the Treasurer-Tax Collector complied with section  
22 3701 was correct and supported by the evidence. Section 3701 only requires the Treasurer-  
23 Tax Collector to mail a notice “to the last known mailing address, if available, of parties in  
24 interest.” The Treasurer-Tax Collector did just that by both searching the Assessor-  
25 Recorder’s database on its own and retaining two title companies to search for and identify  
26 any other parties in interest.

27           47. Moreover, it is undisputed that 47 Kearny Street was the most recent address  
28 to which the most recent *paid* tax bill was sent, and was therefore the mailing address of

1 the PTA that was “last known” by the Treasurer-Tax Collector. And although section 3701  
2 requires the tax collector to “make a reasonable effort to *obtain* the name and last known  
3 mailing address of parties in interest,” (italics added), it does not require the Treasurer-Tax  
4 Collector to take any additional steps to *verify* that address if it is actually the “last known”  
5 address.

6 48. The Board’s written decision rescinding the sale of the PTCA instead  
7 improperly relies on the assertion “[t]hat upon receiving confirmation that the owner of the  
8 property had not received the mailed notice, the Treasurer-Tax Collector should have taken  
9 additional measures reasonably calculated to provide notice to the property owner.” (Seilie  
10 Decl., Ex. 1 at p. 2.) It then found that “the Treasurer-Tax Collector did not take such  
11 additional steps, and the property owner did not receive actual notice of the auction.”  
12 (*Ibid.*)

13 49. The Board’s decision does not cite any statutory provision requiring the  
14 Treasurer’s office to “take additional measures” when a tax-delinquent property owner  
15 fails to receive “actual notice” of an impending sale and whenever a mailed notice is  
16 returned as undeliverable. There is none. To the contrary, there is a statutory provision that  
17 says *the exact opposite*. Revenue and Tax Code section 3701 states that “[t]he validity of  
18 any sale under this chapter *shall not be affected* if the tax collector’s reasonable effort fails  
19 to disclose the name and last known mailing address of parties of interest *or if a party of*  
20 *interest does not receive the mailed notice.*” (Rev. & Tax Code, § 3701, italics added.)

21 50. The undisputed facts in the record confirm that Treasurer-Tax Collector  
22 made a “reasonable effort to obtain the name and last known mailing address” of the  
23 PTA—indeed it *actually obtained* the “last known mailing address” by relying on the most  
24 recent address to which the most recent paid tax bill for the property was sent. And as  
25 section 3701 states clearly, whether or not the PTA received “actual notice” of the  
26 impending auction cannot affect the validity of the sale.

27 51. The law is also clear that even in other contexts (not applicable here) where  
28 the Treasurer-Tax Collector *is required to* make further efforts to contact the owner of tax-

1 defaulted property, a failure to take those steps cannot serve as a basis for rescinding a tax  
2 sale. Revenue and Tax Code section 3704.7(b) provides that for a tax-defaulted “primary  
3 residence”—i.e., owner-occupied property—the Treasurer-Tax Collector is required to,  
4 *inter alia*, “make a reasonable effort to contact *in person* . . . the owner-occupant of that  
5 property.” But the statute further provides, “*No transfer of title shall be invalidated* by  
6 reason of failure to comply with the requirements of this section.” (Rev. & Tax Code, §  
7 3704.7, subd. (d), italics added.) In other words, even if the PTCA were an *occupied*  
8 *parcel*, which it is not, the law would be completely clear that the sale could not be  
9 invalidated based on the Treasurer-Tax Collector’s failure to take *legally required steps*.

10 52. By rescinding the sale of the unoccupied PTCA based on an invented  
11 requirement that the Treasurer-Tax Collector should have taken further steps to contact the  
12 PTA after the notice was returned undelivered, the Board implemented a standard that is  
13 more generous to the PTA than what the law requires for *kicking a person out of his or her*  
14 *home* for failing to pay taxes.

15 53. The Board therefore abused its discretion by rescinding the sale of the PTCA  
16 based on the nonexistent legal requirement that the Treasurer-Tax Collector take additional  
17 steps even though it was already aware of the “last known” address of parties in interest  
18 and ignoring section 3701’s command that the validity of a sale not be affected by the  
19 absence of actual notice.

20 **The Board’s Finding that the Treasurer-Tax Collector Actually Knew that 47 Kearny**  
21 **Street Was an Incorrect Address Was Not Supported by the Evidence**

22 54. The Board also abused its discretion by finding that the Treasurer-Tax  
23 Collector had “receiv[ed] confirmation” that it had the wrong address for the PTA despite  
24 the complete absence of evidence in support of that finding. (Code Civ. Proc., § 1094.5,  
25 subd. (b) [“Abuse of discretion is established if . . . the findings are not supported by the  
26 evidence.”].)

27 55. As detailed above, the Board found “[t]hat upon receiving confirmation that  
28 the owner of the property had not received the mailed notice, the Treasurer-Tax Collector

1 should have taken additional measures reasonably calculated to provide notice to the  
2 property owner.” (Seilie Decl., Ex. 1 at p. 2.) But the evidence in the record does not  
3 support the Board’s finding that the Treasurer-Tax Collector ever affirmatively “received  
4 confirmation” that the mailed notice had not been received by the PTA.

5         56. The evidence does not support the Board’s finding that the Treasurer-Tax  
6 Collector ever “receiv[ed] confirmation” that the PTA “had not received the mailed  
7 notice.” To the contrary, when the PTA’s counsel asked a representative of the Treasurer-  
8 Tax Collector to agree that the notice had been returned to “the Tax Collector’s office,” the  
9 representative corrected him and said that it had only been returned to the city’s Repromail  
10 Department.

11         57. Other evidence in the record undermines the Board’s suggestion that the  
12 Treasurer-Tax Collector had actual knowledge of the returned notice when it moved  
13 forward with the auction. As the Treasurer-Tax Collector told the Board (and the PTA did  
14 not dispute), it sent out 1,480 certified mailing notices advising parties in interest of the  
15 2015 auction, 868 of which were returned as undeliverable. Nothing in the record suggests  
16 that the particular notice mailed to the PTA would have stood out to the Treasurer-Tax  
17 Collector as the only one of 868 pieces of mail that warranted further examination or  
18 investigation.

19         58. The Board’s implicit finding that the Treasurer-Tax Collector had *actual*  
20 knowledge of the returned notice is critical to its conclusion. As explained above, the  
21 Revenue and Tax Code is clear that the validity of a tax sale cannot turn on whether the  
22 *delinquent taxpayer* received “actual notice.” And the Treasurer-Tax Collector is only  
23 required to make reasonable efforts to *obtain* the “last known” address of parties in interest  
24 for tax-defaulted property. Accordingly, the Treasurer-Tax Collector’s efforts to provide  
25 notice to the PTA could only have been deficient if it *actually knew* that 47 Kearny Street  
26 was the wrong address.

27         59. Because the evidence in the record does not support the Board’s finding that  
28 the Treasurer-Tax Collector actually knew that 47 Kearny Street was not the PTA’s correct

1 address, the Board's finding should be set aside as an abuse of discretion.

2 **Supervisor Farrell's Personal Animus Against Ms. Lam Deprived Her of a Fair**  
3 **Hearing**

4 60. Code of Civil Procedure section 1094.5(b) authorizes issuance of a writ  
5 where a petitioner has been deprived of a fair hearing. Deprivation of a fair hearing occurs  
6 when the individuals adjudicating a dispute are personally biased against one of the parties  
7 to that dispute. (See, e.g., *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152,  
8 1170 ["Biased decision makers are . . . impermissible and even the probability of  
9 unfairness is to be avoided."]; *Rosenblit v. Superior Court* (1991) 231 Cal.App.3d 1434,  
10 1448 ["The right to a fair procedure includes the right to impartial adjudicators."].)

11 61. Under Revenue and Tax Code 3731(b), the members of the Board of  
12 Supervisors are the "adjudicators" who are empowered to, following a hearing, rescind a  
13 tax sale over the objection of a purchaser. Supervisor Mark Farrell was one of those  
14 "adjudicators" and both participated extensively in the discussion during the November 28,  
15 2017 hearing and voted against Ms. Lam.

16 62. But Supervisor Farrell's statements to the press in the immediate aftermath  
17 of the November 28, 2017 hearing make clear that he was not an impartial adjudicator and  
18 was motivated to deprive Ms. Lam and her husband of their legally acquired ownership of  
19 the PTCA whether or not the rescission was legally justified.

20 a. A November 29, 2017 article in the San Francisco Chronicle quoted  
21 Supervisor Farrell praised the other "yes" votes for "vot[ing] against allowing these  
22 speculators to get away with purchasing a neighborhood street and attempting to extort San  
23 Francisco residents that I represent into a quick \$1 million payday." He attacked the four  
24 "no" votes as "sid[ing] with these out-of-town speculators." (Seilie Decl. Ex. 2.)

25 b. A December 3, 2017 article in the San Francisco Chronicle quoted  
26 Supervisor Farrell calling Ms. Lam and her husband "bottom-feeding pirates attempting to  
27 extort and hold San Francisco residents hostage." (Seilie Decl. Ex. 3.)

28 63. The issue that the Board considered and decided on November 28, 2017 had



1 nothing to do with Ms. Lam's reasons for participating in the 2015 tax auction or for  
2 purchasing the PTCA. To the contrary, the sole issue was whether San Francisco's *own*  
3 *public agencies* took sufficient steps to provide adequate notice to the PTA before that  
4 auction. It has been undisputed throughout these proceedings that Ms. Lam complied with  
5 all applicable laws and regulations both during the 2015 tax auction and throughout their  
6 ownership of the PTCA, including by paying all applicable property taxes.

7 64. Supervisor Farrell's public attack against Ms. Lam's family, and his  
8 unprovoked dismissal of them as "out-of-town speculators" and "bottom-feeding pirates"  
9 suggests, disturbingly, that his vote and participation in the November 28 hearing was  
10 predetermined and was not based on the evidence concerning the Treasurer-Tax  
11 Collector's compliance with the applicable statutes concerning tax auctions. Because  
12 Supervisor Farrell was motivated by personal animus against Ms. Lam, he should not have  
13 participated in the November 28 hearing or voted on Motion No. M17-181.

14 65. Supervisor Farrell's participation in the November 28 hearing, including his  
15 vote to rescind the sale of the PTCA, deprived Ms. Lam of a fair hearing and requires  
16 issuance of a writ of administrative mandate setting aside the Board's decision.

#### 17 EXHAUSTION OF ADMINISTRATIVE REMEDIES

18 66. Ms. Lam has exhausted all administrative remedies by submitting written  
19 briefing opposing the rescission motion pursuant to the procedures adopted by the Board  
20 before the November 28, 2017 hearing; presenting oral argument in opposition to the  
21 motion during that hearing; submitting further written comments in opposition after  
22 receiving the Board's draft motion adopting findings in support of rescission before the  
23 December 12, 2017 hearing; and presenting further public comment in opposition to the  
24 Board's adoption of the motion.

#### 25 PREPARATION OF THE ADMINISTRATIVE RECORD

26 67. On December 21, 2017, counsel for Ms. Lam requested that the Clerk of the  
27 Board of Supervisors prepare a complete record of proceedings concerning the Board's  
28 motions numbered M17-2181 and M17-205. (See Seilie Decl., Ex. 4.) Counsel will lodge a

1 copy of the administrative record when it is received from the Clerk or may elect to  
2 prepare based on representations by Board employees that the full contents of the record  
3 are publicly available.

4 **FIRST CAUSE OF ACTION**

5 **(Prejudicial Abuse of Discretion, Code of Civil Procedure Section 1094.5(b))**

6 68. Ms. Lam hereby incorporates by reference each and every allegation set forth  
7 above.

8 69. Revenue and Tax Code section 3731(b) only allows the Board to rescind a  
9 tax sale without the consent of the purchaser “pursuant to the circumstances specified in  
10 [Revenue and Tax Code section 3731(a)].”

11 70. Revenue and Tax Code section 3731(a) only authorizes the Board to rescind  
12 a sale if “it is determined that the property should not have been sold.”

13 71. The Board’s conclusion that the PTCA “should not have been sold” at the  
14 April 2015 tax auction was an abuse of discretion because it was not supported by its  
15 findings.

16 72. The Board’s conclusion that the PTCA “should not have been sold” at the  
17 April 2015 tax auction was an abuse of discretion because it relied on the finding that the  
18 Treasurer-Tax Collector “confirm[ed]” that the PTA had not received the mailed notice of  
19 the auction, which was not supported by the evidence in the record.

20 73. The Court should exercise its authority under Code of Civil Procedure  
21 section 1094.5 or, in the alternative, section 1085, to (1) order the Board to set aside its  
22 decision to rescind the tax sale of the PTCA; (2) order the Treasurer-Tax Collector and  
23 Assessor-Recorder to take all necessary steps to withdraw the Rescission of Tax Deed to  
24 Purchaser of Tax Defaulted Property executed December 13, 2017; and (3) order the  
25 Treasurer-Tax Collector and Assessor-Recorder to take all necessary steps to reinstate Ms.  
26 Lam’s rights in the PTCA.

27 **SECOND CAUSE OF ACTION**

28 **(Deprivation of Fair Hearing, Code of Civil Procedure Section 1094.5(b))**



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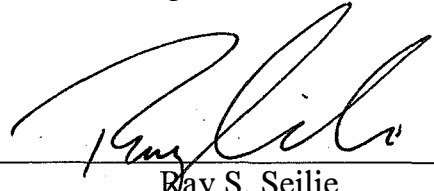
(b) The Board’s Motion No. M17-205, titled “Motion adopting findings in support of the Board of Supervisors’ decision to rescind the tax sale of the Presidio Terrace Common Area, Assessor’s Block No. 1355, Lot No. 001, pursuant to California Revenue and Taxation Code, Section 3731,” adopted December 12, 2017, shall be set aside effective immediately.

(c) The Treasurer-Tax Collector and Assessor-Recorder shall take all steps necessary to withdraw the Rescission of Tax Deed to Purchaser of Tax Defaulted Property and reinstate Ms. Lam’s Tax Deed on the PTCA, effective immediately.

- 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction prohibiting any actions by Respondents adverse to Ms. Lam’s property rights in Presidio Terrace;
- 3. For costs of the suit;
- 4. For attorney’s fees pursuant to Code of Civil Procedure sections 800 and/or 1021.5; and
- 5. For any and all other relief this Court deems just and proper.

DATED: December 22, 2017

Timothy B. Yoo  
Ray S. Seilie  
Bird, Marella, Boxer, Wolpert, Nessim,  
Drooks, Lincenberg & Rhow, P.C.

By:   
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Ray S. Seilie  
Attorneys for Petitioner Hiuyan Lam

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VERIFICATION

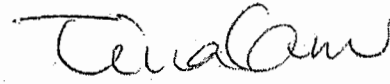
STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I have read the foregoing Verified Petition for Writ of Mandate and know its contents. I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on December 22, 2017, at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Hiuyan Lam  
Print Name of Signatory

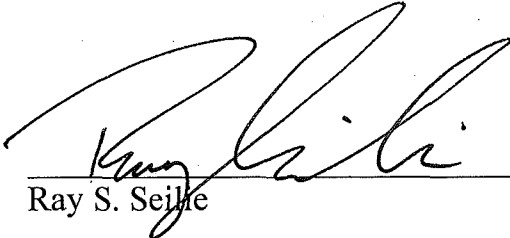


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Signature



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I executed this declaration on December 21, 2017, at Los Angeles, California.



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Ray S. Seille

# **EXHIBIT 1**



1 [Adoption of Findings Related to Rescission of Tax Sale - Presidio Terrace Common Area]

2  
3 **Motion adopting findings in support of the Board of Supervisors' decision to rescind**  
4 **the tax sale of the Presidio Terrace Common Area, Assessor's Block No. 1355, Lot**  
5 **No. 001, pursuant to California Revenue and Taxation Code, Section 3731.**  
6

7 WHEREAS, On July 11, 2017, the Presidio Terrace Association, through its counsel,  
8 requested that the Board of Supervisors schedule a hearing under California Revenue and  
9 Taxation Code Section 3731, to consider rescission of the tax sale of the property known as  
10 the Presidio Terrace Common Area, Assessor's Block No. 1355, Lot No. 001; and

11 WHEREAS, On September 5, 2017, the Board of Supervisors approved Motion No.  
12 M17-125 directing the Clerk of the Board to schedule a Committee of the Whole hearing on  
13 November 28, 2017, to consider rescission of the tax sale; and

14 WHEREAS, At its regular meeting on November 28, 2017, the Board held a duly  
15 noticed public hearing, and considered written briefing and oral presentations by the Presidio  
16 Terrace Association, Hiuyan (Tina) Lam, and the Office of the Treasurer/Tax Collector, and  
17 comment from members of the public; and

18 WHEREAS, Following the public hearing, the Board by a vote of 7-4 voted conditionally  
19 to rescind the tax sale, subject to the adoption of written findings of the Board in support of  
20 this determination; and

21 WHEREAS, The written record and testimony in support of and opposed to the  
22 rescission, and the deliberation of the oral and written testimony at the public hearing before  
23 the Board of Supervisors by all parties and the public in support of and opposed to the  
24 rescission is in Board File No. 170963; now, therefore, be it  
25

1           MOVED, That the Board of Supervisors finds that prior to the tax auction in April 2015  
2 at which the City sold the Presidio Terrace Common Area property, the Treasurer-Tax  
3 Collector provided notice of the auction by various methods, including by sending certified  
4 mail, return receipt requested, to the Presidio Terrace Association, as required by California  
5 Revenue and Taxation Code, Section 3701; and be it

6           FURTHER MOVED, That the tax auction notice mailed to the Presidio Terrace  
7 Association was returned as undeliverable to the City on March 9, 2015, prior to the  
8 scheduled auction; and be it

9           FURTHER MOVED, That upon receiving confirmation that the owner of the property  
10 had not received the mailed notice, the Treasurer-Tax Collector should have taken additional  
11 measures reasonably calculated to provide notice to the property owner; and be it

12           FURTHER MOVED, That the Treasurer-Tax Collector did not take such additional  
13 steps, and the property owner did not receive actual notice of the auction; and be it

14           FURTHER MOVED, That the Board of Supervisors finds that based on the foregoing  
15 and the facts presented in the record before the Board, the property should not have been  
16 sold.



City and County of San Francisco

Tails

Motion: M17-205

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 171281

Date Passed: December 12, 2017

Motion adopting findings in support of the Board of Supervisors' decision to rescind the tax sale of the Presidio Terrace Common Area, Assessor's Block No. 1355, Lot No. 001, pursuant to California Revenue and Taxation Code, Section 3731.

December 12, 2017 Board of Supervisors - APPROVED

Ayes: 9 - Breed, Cohen, Farrell, Kim, Peskin, Ronen, Safai, Sheehy and Yee

Excused: 1 - Fewer

Absent: 1 - Tang

File No. 171281

I hereby certify that the foregoing Motion was APPROVED on 12/12/2017 by the Board of Supervisors of the City and County of San Francisco.

A handwritten signature in black ink, appearing to read "ANGELA CALVILLO", written over a horizontal line.

Angela Calvillo  
Clerk of the Board

# **EXHIBIT 2**

# SF supes reverse sale, return private Presidio Terrace street to homeowners

By Rachel Swan | November 28, 2017 | Updated: November 29, 2017 11:41am

56



Photo: Matier & Ross, Courtesy Google

IMAGE 1 OF 8

Overhead view of Presidio Terrace, the private street that was sold in a tax auction to a San Jose couple even as homeowners were in the dark.

A tony private street in the Richmond that was sold to a San Jose couple for \$90,000 in a little-noticed tax auction over two years ago will be returned to the residents who live there.

The San Francisco Board of Supervisors on Tuesday voted 7-4 to overturn the sale of Presidio Terrace, a looping, exclusive street that went on the auction block after its residents failed to pay \$994 in back taxes.

It turned out the Presidio Terrace Homeowner Association’s \$14-a-year tax bill was being mailed to an accountant who hadn’t worked for the association in years. The bill applied to the common areas and green spaces on the circular street, which were lumped together and taxed as a “vacant” parcel, separate from residents’ homes.

South Bay real estate investor Michael Cheng and his wife, Tina Lam, snatched up the property, and the supervisors approved the sale on Feb. 11, 2015 — one among 550 tax-default deals that were made official in a single unanimous vote. The sale was first reported in The Chronicle.

Couple Buys Residential Street, Could Troll Millionaires Into Paying to Park

Residents of an affluent street in San Francisco are outraged to learn a couple could charge them...



00:00

00:59

Residents of an affluent street in San Francisco are outraged to learn a couple could charge them rent for parking. Nathan Rousseau Smith (@fantasticmnrnate) reports.

Media: JW Player

Residents of Presidio Terrace were stunned when they were contacted in May by a title search company asking if they were interested in buying the property back. They petitioned the board to undo its vote and filed a lawsuit against Cheng, Lam and the city to prevent the couple from unloading the property while the appeal was pending.

Carol Sharer, who said she is in the process of moving to a fixer-upper at 27 Presidio Terrace from her former home in Boston, said she heard about the tax sale from a television newscast.

“You can imagine how shocked we were to find out from the news in Boston that our new community has this condition,” she said.

At the hearing Tuesday, the homeowners’ attorney, G. Scott Emblidge, blasted the city’s tax collector, Jose Cisneros, for depriving San Francisco residents of their property “without due process of law.”

Homeowners who spoke at the hearing said they didn’t receive a single letter or phone call, nor was a sign posted on the property to alert them of the sale. Cisneros said his office had posted notices on its website and in the San Francisco Examiner, and sent one via certified mail to the former accountant’s address before selling the street.

“They (the homeowners) could have visited our website, called the city’s 311 number ... or come to our office,” Cisneros said, adding that his office had followed state rules. Presidio Terrace, like most of the other properties on his 2015 tax default list, was classified as a vacant lot.

Supervisor Mark Farrell, whose district includes the street, noted that other cities require tax collectors to go to great lengths to find the owners of delinquent properties. He chided Cisneros for not doing more to reach the Presidio Terrace Homeowners Association after his letter to the accountant was returned. Farrell made the motion to rescind the sale.

“As a matter of policy, I am proud of my ... colleagues who voted against allowing these speculators to get away with purchasing a neighborhood street and attempting to extort San

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## RELATED

**Inside one of the most exclusive streets in San Francisco that a**



**Presidio Terrace homeowners have only themselves to blame, tax**

**A couple bought one of the most exclusive streets in San**

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Francisco residents that I represent into a quick \$1 million payday,” Farrell said in a statement after the vote. “I am shocked that four of my colleagues sided with these out-of-town speculators.” Those four supervisors were Jane Kim, Aaron Peskin, Hillary Ronen and Norman Yee.

“I believe the vote today to rescind this sale was the best possible outcome,” Farrell said. “The speculators get their money back — no harm, no foul. The back taxes the Presidio Terrace owners owe will be paid immediately. And, we are moving to implement policy reforms (to) the current broken process that allowed this sale to happen in the first place, so that this situation does not happen to any San Franciscan ever again.”

Emblidge urged the board to enact a law that would beef up noticing requirements for delinquent properties and “prevent other San Franciscans from having their rights violated.”

Presidio Terrace was seized once before, in 1983, for defaulting on a common-area tax bill. Several owners who testified at the hearing Tuesday were around that year, when the state took over the deed. Homeowners regained the property two years later.

Shepard Kopp, the attorney representing Cheng and Lam, said his clients had bought the property “fair and square in an auction that complied with all laws of the tax collector.”

He argued, further, that rescinding the sale would set a dangerous precedent, potentially invalidating other sales of delinquent properties.

But Emblidge said several other jurisdictions in California have reversed tax sales. Sixteen were undone in Los Angeles, he said. One was annulled in Alameda County, and one in Contra Costa County.

“It’s not totally unusual,” he said.

Cheng, who spoke at the hearing, characterized himself and his wife as law-abiding property owners who are being penalized “by people who don’t know the laws.”

“We’re going to be very responsible stewards of this street,” Cheng said. “And we’ll make sure all the taxes are paid.”



Lam, who works as an engineer in the South Bay, said she's not rich enough to buy a home on the street. Buying the street itself fulfilled her "simple dream of owning a piece of San Francisco."

Kopp said his clients now plan to sue the city.

*Rachel Swan is a San Francisco Chronicle staff writer. Email: [rswan@sfgchronicle.com](mailto:rswan@sfgchronicle.com)*

*Twitter: [@rachelswan](https://twitter.com/rachelswan)*



**Rachel Swan**

City Hall Reporter

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HEARST *San Francisco Chronicle*

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# **EXHIBIT 3**

# Rich residents who got SF street back will pay 12 cents a year in taxes

By Matier & Ross | December 3, 2017 | Updated: December 4, 2017 6:00am

29



Photo: Marcio Jose Sanchez, Associated Press

FILE - In this Aug. 7, 2017 file photo, street signs are seen at the intersection of Presidio Terrace and Arguello at the entrance to the Presidio Terrace neighborhood in San Francisco. Wealthy homeowners whose private, gated and very exclusive San Francisco street was auctioned off after decades of unpaid taxes are asking supervisors Monday, Nov. 27, 2017, to undo the sale, prompting cries of elitism in a city obsessed with property and fairness. (AP Photo/Marcio Jose Sanchez, File)

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Not only did the residents of San Francisco's exclusive Presidio Terrace win back their gated street — they also get to keep their bargain-basement tax rate of \$4.28 a year for the private roadway and sidewalks.

That works out to 12 cents a year in property taxes for each of the 35 homeowners who once again jointly control the street, now that the Board of Supervisors has voted 7-4 to rescind the city's tax-default sale of the property to a South Bay couple.

Nullifying the city treasurer's 2015 tax sale means that **Tina Lam** and **Michael Cheng** of San Jose will get back the \$90,100 that they paid for the street in an online auction in 2015.



Photo: Nicole Bollaux, The Chronicle

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Tina Lam and her husband, Michael Cheng, outside Presidio Terrace in August. The couple bought the public areas of the gated neighborhood at a city tax auction in 2015, only to have the Board of Supervisors undo the sale Nov. 28.

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It also means that the street's property tax — which went unpaid for 15 years because the city was sending the bill to the address of a long-retired accountant — reverts to \$4.28 a year. Had the supervisors voted to let the sale stand, the property tax would have been \$1,054 a year.

“That’s correct — it reverts back like it hadn’t been sold,” said city Assessor-Recorder **Carmen Chu**.

Future increases will be limited to the 2 percent a year allowed under Proposition 13.

The homeowners, however, will have to pay the \$994 in back taxes and penalties that led to the property going on the auction block. The land also carries \$345 in annual special assessments from the San Francisco schools and community college district.

Presidio Terrace homeowners successfully argued that the street, sidewalks and palm-lined green strips of their private enclave had been sold out from under them without their knowledge. And while they conceded they had neglected to pay their annual taxes, they blamed the treasurer-tax collector's office for sending their bills to the out-of-date address.

The \$4.28-a-year tax bill is "a steal, but there is nothing lawmakers can do about it," said Supervisor **Aaron Peskin**, one of the four supervisors who voted against reversing the sale. "The assessment laws are the assessment laws in the 58 counties of California."

Supervisor **Mark Farrell**, whose district includes Presidio Terrace, said that if there was any steal involved, it was the "bottom-feeding pirates attempting to extort and hold San Francisco residents hostage."

And he noted that even if the city wanted to raise the tax, Prop. 13 would prevent it.

The Presidio Terrace homeowners association has held title to the private street since 1906. And while assessor records cover only the last three decades or so, there is no evidence that the property has ever been reassessed.

Prop. 13, which the state's voters passed in 1978, capped residential tax hikes at 2 percent, starting with a property's 1975 assessment. No reassessment happens unless a property changes hands.

Assessor's records list the Presidio Terrace property's value at \$362. Establishing the true value would not be easy, given its circular configuration and easement rights that assure those living on the street can get in and out of their homes.

“It’s zoned residential, so it’s not like someone could built a casino or pot club on it,” Peskin said. “Still, it does have value.”

It’s safe to say Lam and Cheng saw more value in a prime piece of real estate than \$362. Their lawyer says they’re thinking of suing.

**Matt Dorsey**, a spokesman for the homeowners, said the couple met twice with his Presidio Terrace clients several months back. Lam and Cheng said the property would be worth \$18 million to \$34 million “after it was converted to a parking lot and began generating revenue,” Dorsey said.

Ad

In fact, when we interviewed them over the summer, the couple floated the idea of using the street for parking — saying that if the Presidio Terrace residents weren’t interested in paying for parking privileges, perhaps some of their neighbors outside the gates would be.

Lam and Cheng insisted at the time that the property wasn’t for sale. Only as the two sides were headed to last week’s City Hall showdown did members of the Board of Supervisors suggest the homeowners reach out with an offer to buy back the property for \$200,000, or roughly double what they had paid for it.

Dorsey says the couple’s attorney, **Shep Kopp**, countered with an offer of \$950,000. But before homeowners had a chance to consider the proposal, Lam and Cheng “spoke directly to members of the

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#### MORE BY MATIER & ROSS



**SF prosecutors made key miscalculation in Kate Steinle case**

homeowners association and told them the property was not for sale,” Dorsey said.

“And that closed the door for the final time.”

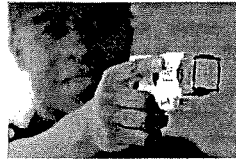
Kopp declined to discuss details of his last-minute negotiations with the homeowners. But he did have some choice words for Farrell, whom he described as “a craven lickspittle who is only too happy to carry water for his rich neighbors in Presidio Heights.”

“And it’s dismaying to see District Two represented by this opportunist who needs these homeowners to contribute money to his campaign for mayor,” he said.

*San Francisco Chronicle columnists Phillip Matier and Andrew Ross appear Sundays, Mondays and Wednesdays. Matier can be seen on the KPIX TV morning and evening news. He can also be heard on KCBS radio Monday through Friday at 7:50 a.m. and 5:50 p.m. Got a tip? Call (415) 777-8815, or email [matierandross@sfchronicle.com](mailto:matierandross@sfchronicle.com). Twitter: [@matierandross](https://twitter.com/matierandross)*



**Undoing sale of rich SF street was a matter of national security**



**SF police union wants a city vote on Tasers for cops**



**Matier & Ross**  
Chronicle Columnists



# **EXHIBIT 4**

**From:** [Timothy B. Yoo](#)  
**To:** [Mchugh, Eileen \(BOS\)](#); [Calvillo, Angela \(BOS\)](#)  
**Cc:** [Ray S. Seilie](#); [Bora Lee](#)  
**Subject:** RE: Tax Auction Rescission Deed  
**Date:** Thursday, December 21, 2017 7:52:01 PM  
**Attachments:** [image001.png](#)  
[12 21 17 Ltr to BOS re Request for Admin Record.pdf](#)

---

Thank you for the clarifications, Ms. McHugh.

Also, please excuse the formality, but please refer to the attached correspondence, which is our official request for the administrative record in this matter. As explained further in the letter, our understanding is that we are required under the applicable statute to make this request in connection with our impending legal challenge to the Board's decision.

Thank you for your anticipated cooperation, and please do not hesitate to contact either me or my colleague Ray Seilie (copied here) if you have any questions or concerns.

**From:** Mchugh, Eileen (BOS) [mailto:[eileen.e.mchugh@sfgov.org](mailto:eileen.e.mchugh@sfgov.org)]  
**Sent:** Thursday, December 21, 2017 8:28 AM  
**To:** Timothy B. Yoo <[tby@birdmarella.com](mailto:tby@birdmarella.com)>  
**Subject:** Tax Auction Rescission Deed

Hello Mr. Yoo,

My sincere apologies, I need to correct myself regarding the minutes.

The *approval* of the November 28 meeting minutes will happen in late January; either the meeting of January 23 or 30, 2018. After which, the final approved minutes on the [Full Board Meetings Page](#) on website for November 28 will replace the DRAFT-Minutes. The minutes for the December 12 meeting will likely be approved during an early February meeting. In either case, the DRAFT Minutes should capture the actions taken by the Board in the meetings of their respective dates. The FINAL minutes will have the signature of the Clerk of the Board. For captions/audio/video you can visit [sfgovtv.org](http://sfgovtv.org). *Please note that these captions should not be treated as record.*

All materials submitted to the Board in connection with the November 28, 2017 Meeting can be found hyperlinked on the [November 28, 2017 Board Agenda](#) and any of the files labeled "Board Pkt 112817" will provide the Board Packets considered by the members of the Board with materials received as of November 22, 2017.

Regards,

Eileen McHugh  
Executive Assistant

Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-7703 | Fax: (415) 554-5163  
[eileen.e.mchugh@sfgov.org](mailto:eileen.e.mchugh@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

**From:** Timothy B. Yoo [<mailto:tyoo@birdmarella.com>]  
**Sent:** Wednesday, December 20, 2017 11:29 AM  
**To:** Mchugh, Eileen (BOS) <[eileen.e.mchugh@sfgov.org](mailto:eileen.e.mchugh@sfgov.org)>  
**Cc:** Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>; Ray S. Seilie <[rseilie@birdmarella.com](mailto:rseilie@birdmarella.com)>  
**Subject:** RE: Tax Auction Rescission Deed

Thank you, Ms. McHugh.

Yes, can you provide me a certified copy of the draft minutes from the November 28, 2017 Board Meeting?

Can you also provide me a certified copy of the draft minutes from the December 12, 2017 Board Meeting, if they are available?

Finally, my understanding is that all materials submitted to the Board in connection with the November 28, 2017 Meeting should be available on the following website:

<https://sfgov.legistar.com/LegislationDetail.aspx?ID=3182603&GUID=DC3EB23B-998F-46FF-B6B2-E2CA19952195>

Can you let me know if I am mistaken?

Thank you again. I appreciate your help with this.

Best,

Tim

**From:** Mchugh, Eileen (BOS) [<mailto:eileen.e.mchugh@sfgov.org>]  
**Sent:** Tuesday, December 19, 2017 3:07 PM  
**To:** Timothy B. Yoo <[tby@birdmarella.com](mailto:tby@birdmarella.com)>  
**Cc:** Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>  
**Subject:** RE: Tax Auction Rescission Deed

Hello Mr. Yoo,

I am more than happy to provide you a certified copy of the draft minutes from the November 28, 2017 Board Meeting. However, if you are looking for transcripts, you will need to visit [sfgovtv.org](http://sfgovtv.org), click Board of Supervisors, and click Caption Notes for the November 28, 2017 meeting, or click [here](#).

If you would still like a certified copy of the draft minutes, please let me know and I will have them ready for you by close of business tomorrow.

Thank you,

Eileen McHugh  
Executive Assistant  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-7703 | Fax: (415) 554-5163  
[eileen.e.mchugh@sfgov.org](mailto:eileen.e.mchugh@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

**From:** Calvillo, Angela (BOS)  
**Sent:** Tuesday, December 19, 2017 10:48 AM  
**To:** Mchugh, Eileen (BOS) <[eileen.e.mchugh@sfgov.org](mailto:eileen.e.mchugh@sfgov.org)>  
**Cc:** Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; [tyoo@birdmarella.com](mailto:tyoo@birdmarella.com)  
**Subject:** FW: Tax Auction Rescission Deed

Eileen,  
Please assist Mr. Yoo with a certified copy.  
Thank you.  
Angela

Angela Calvillo  
Clerk of the Board of Supervisors  
City and County of San Francisco



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*when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

---

**From:** Timothy B. Yoo [<mailto:tyoo@birdmarella.com>]  
**Sent:** Friday, December 15, 2017 2:25 PM  
**To:** Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>  
**Cc:** Buckley, Theresa (TTX) <[theresa.buckley@sfgov.org](mailto:theresa.buckley@sfgov.org)>; Ray S. Seillie <[rseillie@birdmarella.com](mailto:rseillie@birdmarella.com)>  
**Subject:** FW: Tax Auction Rescission Deed

Thank you, Theresa.

Ms. Calvillo, are you able to accommodate us? Please let us know.

Best,

Tim

---

**From:** Buckley, Theresa (TTX) [<mailto:theresa.buckley@sfgov.org>]  
**Sent:** Friday, December 15, 2017 2:22 PM  
**To:** Timothy B. Yoo <[tbby@birdmarella.com](mailto:tbby@birdmarella.com)>  
**Subject:** Re: Tax Auction Rescission Deed

Mr. Yoo,

Please contact the Clerk of the Board of Supervisors.

Sent from my iPhone

On Dec 14, 2017, at 1:34 PM, Timothy B. Yoo <[tyoo@birdmarella.com](mailto:tyoo@birdmarella.com)> wrote:

Thank you, Theresa.

Do you happen to have handy a written transcript of the hearing that was held before the Board of Supervisors on November 28, 2017? If so, are you able to provide us with a copy? We would be much obliged.

Best,

Tim

**From:** Buckley, Theresa (TTX) [<mailto:theresa.buckley@sfgov.org>]

**Sent:** Thursday, December 14, 2017 11:55 AM

**To:** Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>; Timothy B. Yoo <[tby@birdmarella.com](mailto:tby@birdmarella.com)>; Shepard Kopp <[shep@shepardkopplaw.com](mailto:shep@shepardkopplaw.com)>; Scott Emblidge <[emblidge@mosconelaw.com](mailto:emblidge@mosconelaw.com)>

**Cc:** Buckley, Theresa (TTX) <[theresa.buckley@sfgov.org](mailto:theresa.buckley@sfgov.org)>

**Subject:** Tax Auction Rescission Deed

All,

Attached is a copy of the recorded deed memorializing that the tax auction sale of 1355/001 (Presidio Terrace) has been rescinded. Please let me know if you have any questions.

Best regards,  
Theresa Buckley

**Theresa Buckley**

Tax Collector Attorney

Office of the Treasurer & Tax Collector

City and County of San Francisco

P.O. Box 7426

San Francisco, CA 94120-7426

Tel: (415) 554-4492

Fax: (415) 554-5010

[Theresa.Buckley@sfgov.org](mailto:Theresa.Buckley@sfgov.org)

December 21, 2017

**Via E-Mail and U.S. Mail**

Angela Calvillo  
Office of the Clerk of the Board  
Board of Supervisors of the City and  
County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689

**Re: Request for Administrative Record,  
Board of Supervisors File Nos. 170888, 170963, 171060, 171061, 171281**

Dear Ms. Calvillo:

I write on behalf of my client Hiuyan “Tina” Lam to request the record in the above-numbered proceedings in accordance with California Code of Civil Procedure section 1094.6(c), including:

- The transcript of proceedings;
- All pleadings and submissions by interested parties;
- All notices and orders;
- Any proposed decision by a hearing officer;
- The final decision;
- All admitted exhibits;
- All rejected exhibits in the possession of the Board of Supervisors;
- All written evidence;
- Any other papers related to the above-numbered proceedings.

Angela Calvillo  
December 21, 2017  
Page 2

Although I recognize that most, if not all, of these materials may be publicly available on the Board of Supervisors' website, the law requires that for proceedings involving judicial review of a local agency decision, "[t]he complete record of the proceedings shall be prepared *by the local agency or its commission, board, officer, or agent which made the decision* and shall be delivered to the petitioner within 190 days after he has filed a written request therefor."

Please also provide an estimate of the Board's "actual costs for transcribing or otherwise preparing the record," as my client is prepared to reimburse your office for those costs pursuant to Code of Civil Procedure section 1094.6(c).

Your prompt attention to this request is appreciated.

Sincerely,

Timothy Yoo

Timothy B. Yoo

TBY:rss

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 1875 Century Park East, 23rd Floor, Los Angeles, CA 90067-2561.

On December 22, 2017, I served the following document(s) described as **VERIFIED PETITION FOR WRIT OF MANDATE; VERIFICATION; DECLARATION OF RAY S. SEILIE IN SUPPORT THEREOF** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL:** By placing a true copy thereof in sealed envelopes addressed to the parties listed on the attached Service List and causing them to be deposited in the mail at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid. I am readily familiar with our firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 22, 2017, at Los Angeles, California.

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Joannie U. Han-Dressor

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**SERVICE LIST**

*Hiuyan Lam v. Board of Supervisors of the City and County of San Francisco, et al.*

San Francisco Board of Supervisors  
c/o San Francisco Mayor's Office  
City Hall  
1 Dr. Carlton B Goodlett Place, Room 200  
San Francisco, California 94102

San Francisco Office of the Treasurer-Tax  
Collector  
c/o San Francisco Mayor's Office  
City Hall  
1 Dr. Carlton B Goodlett Place, Room 200  
San Francisco, California 94102

San Francisco Office of the Assessor-  
Recorder  
c/o San Francisco Mayor's Office  
City Hall  
1 Dr. Carlton B Goodlett Place, Room 200  
San Francisco, California 94102

Presidio Terrace Association  
c/o Scott Emblidge  
Moscone Emblidge & Otis LLP  
220 Montgomery Street, Suite 2100  
San Francisco, California 94104