

W-9-C-2,
03-9-10-10

AGENDA COVER MEMO

AGENDA DATE: September 10, 2003

TO: Lane County Board of Commissioners

PRESENTED BY: Angela Smith, Taxation Manager G.M.S.

AGENDA ITEM TITLE: IN THE MATTER OF ACCEPTING TAX PAYMENTS
AND TRANSFERRING CORRESPONDING
BANKRUPTCY COURT CLAIMS OF MONTGOMERY
WARDS, LLC, TO VALLEY RIVER CENTER, LLC

I. MOTION

I MOVE TO APPROVE THE ORDER IN THE MATTER OF ACCEPTING TAX PAYMENTS AND TRANSFERRING CORRESPONDING BANKRUPTCY COURT CLAIMS OF MONTGOMERY WARDS, LLC, TO VALLEY RIVER CENTER, LLC

II. ISSUE OR PROBLEM:

Should Lane County transfer its bankruptcy claims in the Montgomery Wards case to Valley River Center, the owner of the property, upon payment in full of the taxes due?

III. DISCUSSION

As a result of Montgomery Ward, LLC, having filed bankruptcy, certain taxes owing on the real property have not been paid. This has resulted in the Department of Assessment and Taxation filing three claims before the bankruptcy court. The amounts through September 15, 2003, total \$158,104.30.

The owner of the leased property is Valley River Center, LLC (VRC). VRC has proposed to pay the outstanding taxes, and receive in return an unconditional transfer of claim for each of the three claims. This transfer would allow VRC to pursue Lane County's rights as a creditor of the bankrupt estate. The proposal is further that Lane County would not guarantee anything with regard to the ultimate determination of the court, but the County would assist VRC, at VRC's sole cost and expense, with the presentation of any records or testimony necessary to pursue these claims.

A transfer of claims as is proposed, is a relatively common practice in bankruptcy proceedings. It would provide Lane County with payment in full on its real property taxes, and would allow VRC to have its property free of continued interest accrual of taxes that ultimately may not be fully paid by the debtor.

IV. OPTIONS

1. Approve the Order allowing transfer of the claims.
2. Do not approve the Order allowing transfer of the claims.

V. RECOMMENDATION

Option 1.

VI. TIMING

Timing is important in this matter, due to interest accrual on these taxes and due to the fact that VRC has drawn funds to pay the taxes as calculated through September 15, 2003.

VII. FOLLOW-UP

Upon receipt of the funds by the Department of Assessment and Taxation, the County Administrator will execute the appropriate transfers.

IV. ATTACHMENTS

Unconditional Transfer of Claim forms
Board Order

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF ACCEPTING TAX PAYMENTS AND
TRANSFERRING CORRESPONDING BANKRUPTCY
COURT CLAIMS OF MONTGOMERY WARDS, LLC, TO
VALLEY RIVER CENTER, LLC

WHEREAS, there are certain taxes due and payable that have been reduced to Bankruptcy Court claims in the case of *In Re: Montgomery Ward, LLC, et al, Debtors*, case number 00-4667 (RTL), to wit:

<u>Claim No.</u>	<u>Account No.</u>	<u>Total owing through 9/15/03</u>
161	1105475	\$ 101,475.10
162	1098415	\$ 44,565.01
164	1449071	\$ 12,064.19

and

WHEREAS, the owner of the real property, Valley River Center, LLC, desires to pay the outstanding debt and receive an Unconditional Transfer of the above bankruptcy claims, and

WHEREAS, receipt of said monies will fully satisfy the outstanding tax obligation and is in the best interests of Lane County,

NOW, THEREFORE, it is hereby ordered that, upon receipt of the referenced funds on or before September 15, 2003, the County Administrator be authorized to sign all documents necessary to affect a transfer of the claims.

Adopted this _____ day of _____ 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 9-2-03 Lane County

OFFICE OF LEGAL COUNSEL

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re) Case No. 00-4667 (RTL)
MONTGOMERY WARD LLC) Jointly Administered - Chapter 11
)
) UNCONDITIONAL TRANSFER
) OF CLAIM AFTER
Debtor(s)) PROOF OF CLAIM FILED
)

I, the undersigned, under penalty of perjury under the laws of the United States of America declare (or certify, verify, or state) that the following statements and information are true and correct:

1. A proof of claim was originally filed in the above-entitled case on behalf of the creditor Lane County (Oregon) Department of Assessment and Taxation, as a secured claim in the amount of \$ _____ and registered by the court as claim # _____.

2. I am (**CHECK ONE**):

a. the creditor named in pt. 1 above; or

b. the lawful agent of such creditor who is duly authorized to execute this document on behalf of the creditor.

3. For valuable consideration I do hereby assign, transfer, and set over the claim detailed in pt. 1 above to Valley River Center, LLC, an Oregon limited liability company, whose address is c/o Vernon D. Gleaves, 975 Oak Street, Suite 800, Eugene, Oregon 97401.

4. I request that any check, and/or information, respecting this claim be served on the entity named in pt. 3 above.

5. I specifically waive any right to notice or an order of substitution provided in Federal Bankruptcy Rule 3001, and also waive further notice of any matters in connection with the claim detailed in pt. 1 above.

6. The creditor represents to the assignee named in pt. 3 above and the debtor: (i) the claim has not previously been assigned or encumbered; (ii) the claim is in good standing; (iii) no portion of the claim has been paid; (iv) no objection to the claim has been filed, or if any objection has been filed, a timely response has been filed; and (v) the claim is awaiting disposition.

7. I understand that, pursuant to 18 USC §152, I shall be fined not more than \$5,000.00, or imprisoned not more than five years, or both, if I have knowingly and fraudulently made any false statements in this document.

8. A COPY OF THIS DOCUMENT HAS BEEN SERVED ON THE CASE TRUSTEE WHOSE NAME AND MAILING ADDRESS ARE: _____

Executed on _____, 2003.

LANE COUNTY DEPARTMENT OF ASSESSMENT AND
TAXATION

By _____

Its: _____