

W4.B.1.

Agenda Date: June 20, 2007

To: Board of Commissioners

Department: Assessment and Taxation

Presented By: Anette Spickard, Assessor

Title: MOVE APPROVAL OF ORDER NO. . TO ALLOW THE DEPARTMENT OF ASSESSMENT AND TAXATION TO WRITE OFF REMAINING TAXES ON ACCOUNTS INVOLVED IN THE LUZON SERVICES, INC. BANKRUPTCY.

I. MOTION

MOVE APPROVAL OF ORDER NO. . TO ALLOW THE DEPARTMENT OF ASSESSMENT AND TAXATION TO WRITE OFF REMAINING TAXES ON ACCOUNTS INVOLVED IN THE LUZON SERVICES, INC. BANKRUPTCY.

II. AGENDA ITEM SUMMARY

Department of Assessment and Taxation requests permission to write off taxes that remain on property accounts after applying payment from Luzon Services, Inc.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

On May 2, 2001 Luzon Services, Inc filed for protection under Chapter 11 bankruptcy in the United States Bankruptcy Court.

On June 21, 2002 Lane County, represented by David Williams, Lane County Counsel, entered into an agreement with Farleigh, Wada & Witt, P.C., representatives for Michael A. Grassmueck, Inc., trustee for Luzon Services, Inc. The agreement stated that the sum of \$14,700.00 would be issued to Lane County for full payment of real property taxes for the property located at 720 South A Street, Springfield, Oregon. The agreement also stated that the funds may be subject to disgorgement at a later date should it be determined pursuant to 11 U.S.C. §724(b), that the Trustee is entitled to subordinate payment of the property taxes to payment of administrative expenses.

On November 10, 2006, Lane County received notice that the Trustee had filed his Final Report and that the Chapter 11 administrative claims would not be paid in full. Therefore, the Trustee was entitled to subordinate the lien of Lane County, and a request was made that Lane County issue a full refund of the \$14,700 within 10 days of the date of notice. After conferring with outside bankruptcy counsel as to whether there may be possible defenses to disgorgement of the \$14,700.00, counsel negotiated a tentative settlement which would require only a 50% payment by the County. That is the agreement before the Board today.

B. Policy Issues

Oregon Revised Statute 311.790: Cancellation of uncollectible personal property tax. If the tax collector and the district attorney (County Counsel) for any county determine that taxes on personal property that are delinquent are for any reason wholly uncollectible, the tax collector and district attorney may request, in writing, the county court (Board of County Commissioners) for an order directing that the taxes be canceled. The court, when so requested, may in its discretion order and direct the tax collector to cancel such uncollectible personal property taxes. The order shall be entered in the journal of the county court.

C. Board Goals

A commitment to "the most efficient use of the public's resources" is listed among the Guiding Principles in the Lane County Strategic Plan. Based on the advice of counsel, the proposed settlement would be the most efficient use of resources.

D. Financial and/or Resource Considerations

This action will not have an impact on the County's or Assessment & Taxation's finances or resources.

E. Analysis

Through the bankruptcy proceeding, the Court had the ability to reduce the amount of monies payable to all creditors. The original payment was accepted by the Department of Assessment and Taxation with the understanding that the payment being made could be subordinated at a later time to pay the administrative costs of the case, should there not be sufficient funds to otherwise pay for those expenses.

Outside bankruptcy counsel has recommended this settlement, and the Department of Assessment and Taxation wishes to proceed in accordance with that recommendation. Should the County not reach a settlement agreement with Luzon Services, Inc., litigation costs would likely more than exceed any improvement the County might obtain over the settlement agreement.

F. Alternatives/Options

1. Approve the Luzon Services, Inc. settlement and the cancellation of the remaining taxes on the affected accounts.

2. Do not approve the order.

IV. TIMING/IMPLEMENTATION

The Department of Assessment and Taxation will cancel the remaining taxes on all accounts involved. This action will be completed by May 31, 2007

V. RECOMMENDATION

Option 1.

VI. FOLLOW-UP

Should the order be approved, the settlement amount will be applied to the applicable property accounts and the remaining taxes will be cancelled. No follow up with the Board will be necessary.

VII. ATTACHMENTS

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF APPROVING SETTLEMENT
OF THE LUXON SERVICES, INC. TAX CLAIMS IN
BANKRUPTCY COURT, AND APPROVING THE
CANCELLATION OF TAXES REMAINING ON THE
AFFECTED ACCOUNTS

WHEREAS Luzon Services, Inc. owned property in Lane County subject to ad valorem taxes, at accounts 0318004 and 5008980, and

WHEREAS Luzon Services, Inc. filed bankruptcy on May 2, 2001, contesting, inter alia, its property tax assessments, and

WHEREAS the assessor received payment for taxes following the bankruptcy filing with the agreement that said monies were subject to disgorgement at a later date to pay administrative costs of the case in the event that there were not sufficient funds to otherwise pay for those expenses, and

WHEREAS the Assessor, has agreed on terms of settlement that will require disgorgement/payment to the bankruptcy trustee of 50% of the monies previously paid (50% of \$14,700.00), and

WHEREAS it is necessary that the Board approve the settlement and the cancellation of taxes remaining on these Luzon Services, Inc. accounts, and

WHEREAS the Assessor does request that the Luzon Services, Inc. settlement terms be approved and that cancellation of the remaining taxes on the above referenced accounts be allowed, and

NOW, THEREFORE, it is hereby ordered that the Assessor be authorized to enter into settlement agreement in substantial conformance with the terms above, and it is further

ORDERED that the Assessor take such actions as are necessary to make payment to the bankruptcy trustee and to cancel the remaining taxes on the property tax accounts set forth herein.

Adopted this _____ day of _____ 2007.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

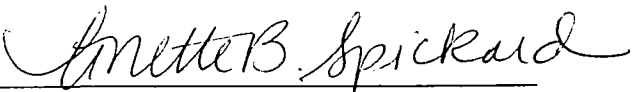
Date 6-12-07 lane county

[Signature]
OFFICE OF LEGAL COUNSEL

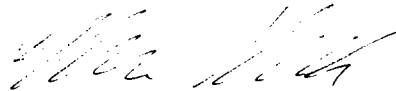
TO: THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

Pursuant to ORS 311.790, it is respectfully requested that the Board of County Commissioners of Lane County, Oregon order cancelled the taxes remaining on property accounts involved in Luzon Serviced, Inc. bankruptcy, it having been determined by the undersigned that said taxes are wholly uncollectible.

Dated at Eugene, Lane County, Oregon, this 13th day of June, 2007.



ANETTE SPICKARD, ASSESSOR
Department of Assessment and Taxation

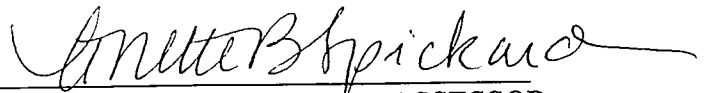


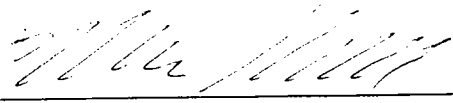
MARC KARDELL
Assistant County Legal Counsel

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