

AGENDA COVER MEMORANDUM

W.S.C.I.

Memorandum Date: November 7, 2006

Agenda Date: November 21, 2006

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**TO:** Board of County Commissioners

**DEPARTMENT:** Management Services

**PRESENTED BY:** Jeff Turk, Property Management Officer 2

**SUBJECT:** ORDER/ IN THE MATTER OF AUTHORIZING THE PROPERTY MANAGEMENT OFFICER TO SIGN AND RECORD AN AFFIDAVIT DISCLAIMING OWNERSHIP OF REAL PROPERTY ERRONEOUSLY DEEDED TO LANE COUNTY IDENTIFIED AS ASSESSOR'S MAP # 16-04-35-43-14538

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1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE PROPERTY MANAGEMENT OFFICER TO SIGN AND RECORD AN AFFIDAVIT DISCLAIMING OWNERSHIP OF REAL PROPERTY ERRONEOUSLY DEEDED TO LANE COUNTY IDENTIFIED AS ASSESSOR'S MAP # 16-04-35-43-14538

2. **AGENDA ITEM SUMMARY:**

It has been discovered that a property has been deeded to the County without the County's knowledge, consent or acceptance. The Board is being asked to authorize the Property Management Officer to file an affidavit with the Recorder's office disclaiming ownership of the property and thereby removing the County from the title.

3. **BACKGROUND/IMPLICATIONS OF ACTION:**

A. **Board Action and Other History**

The erroneous Quitclaim Deed was recorded in July, 2002 (two years of property taxes were delinquent at the time the deed was recorded). The Grantor is Westward Development, Inc. The property is located at the corner of Spring Meadow Avenue and Beacon Drive in the Santa Clara area and is approximately 2/3 of an acre in area.

The property is identified as a "drainage easement" in the subdivision plat it is part of (Amberwood).

The Property Management Officer became aware of the matter when calls from the City of Eugene and adjoining property owners were received asking that the overgrown vegetation on the property be addressed.

**B. Policy Issues**

It has been the practice of the County to not voluntarily accept title to property with delinquent taxes and allow them to complete the foreclosure process.

ORS 93.808 requires a written acknowledgement on a deed conveying property to a public body that the public body approves and accepts the deed for recording. No such acknowledgement is present on the deed.

**C. Board Goals**

No specific Board goals are applicable in this matter.

**D. Financial and/or Resource Considerations**

Costs to record the affidavit will be less than \$100. Staff time (Property Management and County Counsel) should be less than 2 hours.

Voluntarily accepting the deed to the property would require using General Fund monies to maintain and manage it.

**E. Analysis**

The property is designated for use as a drainage easement in the subdivision plat with the CC&Rs of the subdivision requiring that no structures or other activity that changes or impedes the flow of water shall be permitted in the easement area. The topography of the parcel consists of a drainage ditch with steep banks on either side. The topography, coupled with the easement restrictions, makes the parcel unsuitable for a dwelling. The property has an assessed value of \$500.

The property has become overgrown with vegetation which requires maintenance. Voluntarily accepting title to the property would make the county responsible for maintenance with funds coming from the General Fund to pay for it. By allowing the property to proceed through the tax foreclosure process and acquiring it in that manner, the County can use funds generated from the sale of other tax foreclosed properties to maintain it.

The property was 2 years delinquent in property taxes when it was erroneously deeded to the County (the developer likely assumed by Quitclaiming it they would no longer be liable for the taxes). As there was a deed recorded conveying the parcel to the County, the Dept. of Assessment and Taxation discontinued assessing taxes and the normal foreclosure process was put on hold. Upon the County disclaiming ownership, the property will be put back in the Grantor's name and then continue through the foreclosure process which will take 3 years to complete.

**F. Alternatives/Options**

1. Authorize recording an affidavit disclaiming ownership. This will return the property to the original owner and allow the property to proceed through the tax foreclosure process.

2. Accept the deed thereby voluntarily acquiring ownership. This will immediately make the county liable for the property and require use of General Funds to maintain it.

**V. TIMING/IMPLEMENTATION**

Implementation of Option 1 will take 2-4 weeks to complete.

**VI. RECOMMENDATION**

It is recommended that Option 1 be pursued.

**VII. FOLLOW-UP**

Upon approval by the Board, the affidavit will be signed by the Property Management Officer and recorded in the Deed Records of the County. A&T will also be informed of the action and will then proceed in returning the property to the original owner's name and again assessing taxes.

**VII. ATTACHMENTS**

Board Order  
Affidavit  
Erroneous Quitclaim Deed  
Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING THE PROPERTY MANAGEMENT OFFICER TO SIGN AND RECORD AN AFFIDAVIT DISCLAIMING OWNERSHIP OF REAL PROPERTY ERRONEOUSLY DEEDED TO LANE COUNTY IDENTIFIED AS ASSESSOR'S MAP # 16-04-35-43-14538

WHEREAS it has come to the attention of Lane County that a property has been deeded to Lane County without the County's knowledge, consent or acceptance and

WHEREAS the deed to said erroneously conveyed property is recorded as Reception No. 2002-056179 in the Deed Records of Lane County and is more particularly described as

**Lot "A", AMBERWOOD, as platted and recorded in File 75, slides 363, 364 and 365 Lane County Oregon Deed Records (16-04-35-43-14538)**

WHEREAS Lane County does not wish to accept conveyance of said property and disclaims any interest in said property and

WHEREAS Lane County wishes to proceed with removing its name from title to said property

IT IS HEREBY ORDERED that the Property Management Officer is authorized to executed an Affidavit substantially similar to attached Exhibit "A" disclaiming any interest in the property described above; is authorized to record said Affidavit in the deed records of Lane County and to otherwise proceed in assuring removal of Lane County from title to said property

IT IS FURTHER ORDERED that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Bill Dwyer, Chair, Board of County Commissioners

APPROVED  
11-9-06  
*Man Dwyer*

AFFIDAVIT DISCLAIMING OWNERSHIP-  
ASSESSOR'S MAP AND TAX LOT 16-04-  
35-43-14538

STATE OF OREGON )  
 ) ss.  
County of Lane County )

I, Jeff Turk, being first duly sworn, state:

That I am the Property Management Officer for Lane County, and am duly authorized by said County pursuant to LM 21.400 to make the representations herein.

The quitclaim deed recorded at:

Recorder's Reception No. 2002-056179, quitclaiming property at Assessor's map and tax lot #16-04-35-43-14538 to Lane County with said property more particularly described as; Lot "A" , AMBERWOOD, as platted and recorded in file 75, Slides 363, 364 and 365, Lane County Oregon Plat Records, Lane County Oregon;

was never accepted nor approved by the County, and no indication of any approval is apparent on said deed. The recording of said conveyance was contrary to ORS 93.808, and is null and void for want of acceptance by Lane County.

Further your affiant sayeth not.

\_\_\_\_\_  
Jeff Turk

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

AFTER RECORDING RETURN TO:

Send funds to:  
Lane County  
125 E 8<sup>th</sup> Ave  
Eugene, OR 97401

Division of Chief Deputy Clerk  
Lane County Deeds and Records

2002-056179



\$31.00

00317410200200561790020022

07/26/2002 08:42:43 AM

RPR-DEED Cnt=1 Stn=7 CASHIER 08

\$10.00 \$11.00 \$10.00

LF298-04  
R298-04

### QUITCLAIM DEED

THIS QUITCLAIM DEED, executed this 15<sup>th</sup> day of July, 2002,  
by first party, Grantor, Westward Development Inc.  
whose post office address is P.O. Box 25609, Eugene, OR. 97402  
to second party, Grantee, Lane County  
whose post office address is 125 E. 8<sup>th</sup> Ave., Eugene OR. 97401

WITNESSETH, That the said first party, for good consideration and for the sum of  
Zero Dollars (\$ 0 )  
paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release  
and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first  
party has in and to the following described parcel of land, and improvements and appurtenances thereto in  
the County of LANE, State of Oregon to wit:

Lot "A" Amberwood Subdivision, as platted and  
recorded in file 75, Slides 363, 364 and 365, Lane  
County Oregon Plat Records, in Lane County, Oregon

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

\_\_\_\_\_  
Signature of Witness

Thomas Petramalo  
Signature of First Party

\_\_\_\_\_  
Print name of Witness

Thomas Petramalo  
Print name of First Party

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of First Party

\_\_\_\_\_  
Print name of Witness

\_\_\_\_\_  
Print name of First Party

State of Washington

County of King

On 7-14-02

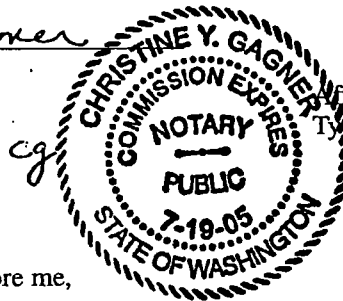
before me, Christine Y Gagner

appeared Thomas M Petramalo

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Christine Y Gagner  
Signature of Notary



Affiant \_\_\_\_\_ Known \_\_\_\_\_ Produced ID \_\_\_\_\_  
Type of ID \_\_\_\_\_ (Seal)

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_

before me,

appeared \_\_\_\_\_

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

Affiant \_\_\_\_\_ Known \_\_\_\_\_ Produced ID \_\_\_\_\_  
Type of ID \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Signature of Preparer

\_\_\_\_\_  
Print Name of Preparer

\_\_\_\_\_  
Address of Preparer

SUBJECT

