

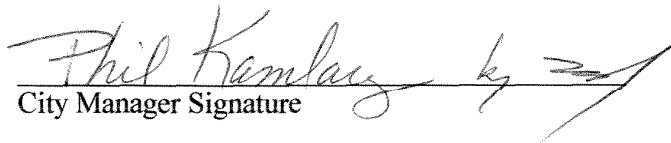
Office of the City Manager

TO BE DELIVERED AGENDA MATERIAL

Meeting Date: November 4, 2003

Item Number: #23

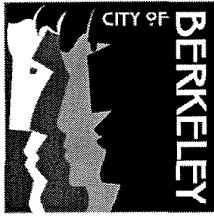
Item Description: Update and Status of Escaped Property Tax Assessments



City Manager Signature

(This cover sheet should be used only if the agenda item the material refers to was listed on the agenda as To Be Delivered)





Office of the City Manager

INFORMATION CALENDAR

November 4, 2003

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, Acting City Manager

Subject: *Update and Status of Escaped Property Tax Assessments*

SUMMARY

Questions were raised during the special council meeting on October 21, 2003, regarding the City assessments and taxes for the Gaia Building located at 2116 Allston Way (parcel 57-2030-2); and raising the allegation that the owners of the Gaia Building did not properly pay Berkeley taxes or assessments. Subsequently, the public and the press identified additional parcels that were alleged to also have escaped correct and timely assessment.

An off-agenda memorandum on the situation was prepared and distributed to Council on Friday, October 24, 2003, and is attached for your reference as ATTACHMENT A. This report deals with the matter in more detail, and presents the status of the specific properties originally identified. It also negates the accuracy of the implications in the media that the missed taxable properties totaled millions of square feet.

Staff has been aware that processes of both the city and the county are prone to errors or lack of timely data, and have been making improvements in the system the last few years. Staff was already working on some of the identified properties such as Gaia.

Final Certificates of Occupancy have not been issued on the Gaia, Oak Ct, and Acton Courtyard Apartment buildings, which is why the taxes and assessments were not yet charged. The Artech Building paid taxes in 2004 based on 100% commercial use. Therefore there is an adjustment owing the property from the City to reflect the mixed use. The occupancy approval was issued to the Berkeleyan on 7/10/00, but was not correctly entered into the system in order to be picked up by the then newly automated assessment process. The Bank of America building was missed in the last few years due to a staff data entry error, which inadvertently changed the square feet to "00" and tied the address to the parking lot rather than the building. The Renaissance Apartment building did pay taxes in each year, but was assessed on being 100% residential. The assessment has been updated to reflect mixed use.

Staff has currently identified \$267,957 in combined assessment or tax revenue to the City, Library and BUSD that can be captured from the eight specific properties identified herein. There is also some much smaller amount of lost revenue from unbilled years outside the statute of limitations. As staff continues to work through the various property lists as described in this

report, additional revenue, both billable and lost, will likely be identified. However, many of the remaining escaped assessments appear to be single-family home additions or remodels with very few additional large commercial buildings. Therefore, it is not expected that significant amounts of either billable or lost revenue will be discovered. Exceptions to this may be: 2951 Derby (125,000 sq. ft.), 2508 Channing (12,814 sq. ft.), and 1101 Eighth Street (23,800 sq. ft.).

The data related to seven of the eight properties identified through the current activity are displayed in the following table. The eighth property (1797 Shattuck) is under construction and no escaped taxes or assessments were identified. In all cases involving properties owned by Mr. Patrick Kennedy, all taxes that were billed were paid. In some cases, only *ad valorem* taxes and assessments were billed. This occurred for a variety of reasons, most of which related to these properties being wholly new construction. Mr. Kennedy and staff have met and reached agreement on the square feet to be taxed for each property, the dollar amounts calculated related to each, and the total amount due by property. As can be seen from the following summary, this amounts to \$163,316 for the current tax year plus three previous years for all properties described below.

Property	Collectible Tax Years Missed	Billable Amount	Totals
2116 Allston – Gaia	2002-03, 2003-04	\$72,275	
1910 Oxford – Berkeleyan	2000-01, 2001-02, 2002-03, 2003-04	\$68,450	
2002 Acton – Acton Courtyard	2003-04	\$28,461	
2101 Milvia – Artech	2003-04 (incorrect use listed)	(\$5,869)	\$163,317
2161 Allston – Oak Court	2002-03, 2003-04	\$39,521	
1631 University – Renaissance	2000-01, 2001-02, 2002-03, 2003-04	\$45,859	
1536 Shattuck – B of A	2001-02, 2002-03, 2330-04	\$19,260	
TOTAL			\$267,957

This work by concerned and involved citizens has created the opportunity for staff to present information to Council regarding the work they have been doing in the area of land data verification and improved revenue capture for the last few years; and to identify critical issues affecting revenue collection, which may very likely require additional resources in the near future. Staff will return to Council in or before January 2004 with a status report.

CURRENT SITUATION AND ITS EFFECTS

In early August of each year, city staff prepares the tax rolls for the City, the Library, and the BUSD, and transmits the data to the County Of Alameda for inclusion on the county’s property tax bills, which are sent out in September/ October. In essence, the county becomes the billing agent for the city, the library and the school district, and charges 1.7% of the total billed dollars for providing this service. There are four main types of taxes and assessments included on the bills: *ad valorem*, special taxes, fees, and assessments. Please see ATTACHMENT B for a sample property tax bill.

Ad valorem taxes are based on the assessed valuation of the property as a whole: the County of Alameda establishes the assessed valuation. City of Berkeley *ad valorem* taxes include two General Obligation bonds: Measure “G” and Measure “S”. *Ad valorem* taxes are calculated/generated by the County of Alameda based on assessed valuation of the property.

The City’s special taxes, fees, and assessments are based on either square footage of the lot (Clean Storm Water), square footage of the improvements less nontaxable structures such as decks and garages (Street Lighting, Arlington Street Lighting, Landscape & Parks, Library, Paramedic, Emergency Services for the Disabled, Mello Roos-Fire Safety, and BUSD taxes), or a variety of fee structures or per parcel fees (Refuse, Elmwood Theater and Business Improvement District (BID), and Telegraph and North Shattuck BIDs.)

The City produces the square foot data, which we report to the County on a regular basis according to the final building permits issued in the period. The City also calculates all but the *ad valorem* taxes, and communicates these calculations to the County annually for incorporation into the tax bill.

Each year, there are a certain number of properties that escape being taxed and assessed through the standard system. There are many reasons for this: timing in the property gaining taxable status, system error, lack of correct or complete data, or human error (e.g., incorrect data entry at multiple points in the procedure). Therefore, City staff conducts a manual billing process following the annual communication of the tax and assessment data to the County, which utilizes several sources of possible escaped parcels or improvements including the “exempt property” list produced by the City and reviewed after the annual tax bills are prepared.

Similarly, staff from the Planning Department, Information Systems, and Finance has been working over several years to systematically improve the accuracy of the data coming into the system. The goal of this work group has been to more accurately and timely capture complete land based data utilizing new technology, improved data management systems, improved workflow processes, and recently dedicated resources.

While new technology such as the Geographical Information System (GIS) and improved programming and utilization of the City’s financial enterprise system have been great tools in this effort, much of the work is manual. Cleaning up and stabilizing existing data often requires crosschecking among multiple sources of information, both paper-based and automated, and going out into the field to verify information. Staff must do this at the same time that they receive and carefully and correctly enter new information into the system.

With the addition of one dedicated FTE this last year, this process is now conducted year-round and not just at tax roll preparation time. We are already seeing an immense payoff from adding this resource, which more than pays for itself and its associated support costs. The salary costs for this FTE are charged to six assessment funds at the rate of 16.675% each.

BACKGROUND

Questions were raised during the special Council meeting on October 21, 2003, regarding the City assessments and taxes for the Gaia Building located at 2116 Allston Way (parcel 57-2030-2); and raising the allegation that the owners of the Gaia Building did not properly pay Berkeley taxes or assessments in a timely manner. Subsequently, the public and the press identified additional parcels that were alleged to also have escaped correct and timely assessment. Research on these specific buildings revealed the information as shown in table on page 2 of this report.

While properties were missed in preceding years, the actual total of properties not taxed on the property tax rolls in August 2003 is far less than implied by the anecdotal information received, and is within the normal expected error rate for an annual process that tracks and bills taxes and assessments on 78 million square feet of improvements. Most of the revenue to be captured from billing the missed properties is due to special funds, and not the General Fund.

There are three main categories of properties that require research and manual adjustment at regular times during the year: those properties showing as having zero square feet of improvements (the "00" Report); those that have received some kind of exemption from taxation from the County (the Exempt Report); and those that are reflected in the Building and Permits module of the City's automated enterprise system as having an "open" or not final building permit.

The "00" Report. Properties show up on this report for a variety of reasons: vacant lots, parking lots, fully tax exempt, incomplete construction not yet taxable, and by error. In reviewing this report as of 10/24/03, there were 338 parcels on the list. Of those, 228 are valid "00" properties (parking lots, etc.). 11 are duplicated on the "Open Building Permit" list. The remaining 99 require further research. However, only 55 of those reflect major square footage, and the remaining 44 are single-family homes. Three properties are of particular note and are currently the focus of staff effort: 2951 Derby (125,000 sq. ft.), 2508 Channing (12,814 sq. ft.), and 1101 Eighth Street (23,800 sq. ft.).

The "Exempt" Report. This likely includes some properties showing on the "00" Report, but also includes properties with partial or full exempt status. Properties are declared exempt by the County under various sections of the Internal Revenue Code and include non-profit organizations (i.e., those designated 501(c)(3) or 501(c)(4)), and governmental institutions. There is also special handling of public utilities, which requires manual billing each year as well.

The City bills taxes and assessments according to the County's list. On the last tax rolls, the County identified 1,933,078 square feet of improvements on parcels in Berkeley containing exempt square feet, and a total of 1,289,149 square feet of which were actually exempt.

Staff has completed the review of the last exempt report coming from the County and identified only one error. A single-family home was classified as a public utility in error. As part of the normal escaped assessment manual process, this property has already been billed for the 1st tax installment, and will be billed the 2nd one shortly.

The "Open Building Permits" Report. This report captures all open building permits currently in the system at a given point in time. Building permits may be open because a property owner or agent took out a permit but never began the intended project, a project is not yet begun, a project is underway but not complete, or because some remaining items still require attention and the permit cannot be closed out even though the project is occupied.

An October 24 "Open Building Permit" report included 361 properties with a total of 930,718 sq. ft. Staff reviewed the 68 projects with the greatest number of square feet to determine the status of each project. These 68 projects constituted 809,043 of the total 930,718 sq. ft. identified on the list. 329,661 square feet are occupied and therefore taxable, and include the Gaia, Oak Court, Acton, and Artech projects among others:

- a. 280,000 square feet (80%) have been occupied since 2000, and the City will be able to fully capture the revenue that is due.
- b. About 50,000 square feet (20%) is still under review to determine date of occupancy.

About 480,000 square feet are under construction and not taxable. There is another 121,000 square feet in mostly small projects, primarily single-family home additions. Staff is currently evaluating how many of these remaining smaller projects are complete and therefore taxable, and how many are still under construction and not taxable.

Data on Specific Missed Assessments. During the course of this project, the public and staff have identified eight large buildings for which escaped assessments were suspected. Of those eight, Mr. Patrick Kennedy is the owner of record for four: The Gaia Building, the Berkeleyan, the Acton Courtyard, and the Artech Building. Four others belong to various owners. The table on pages 6 and 7 of this report summarizes the escaped taxes, assessments, and fees for each property. The total amount calculated and due for all eight properties is \$267,957.

Final Certificates of Occupancy have not been issued on the Gaia, Oak Ct, and Acton Courtyard Apartment buildings, which is why the taxes and assessments were not yet charged. These buildings are in the process of being occupied, are new into the system, and would likely have been picked up in the normal escaped assessment process currently going on, or in the preparation of the next tax August tax roll.

The Artech Building paid taxes in 2004 based on 100% commercial use. Therefore there is an adjustment owing the property from the City of \$5,869 to reflect the mixed use split between residential and commercial.

Occupancy approval was issued to the Berkeleyan on 7/10/00, but was not correctly entered into the system in order to be picked up by the then newly automated assessment process.

The Bank of America building was missed in the last few years due to a staff data entry error, which inadvertently changed the square feet to "00" and tied the address to the parking lot rather than the building.

The Renaissance Apartment building did pay taxes in each year, but was assessed on being 100% residential. The assessment has been updated to reflect the actual mixed use, which calculates to \$45,859 in additional taxes for three years back plus the current year. A small amount of revenue may have been lost for two years beyond that, which staff is still researching.

Missed Assessments Summary

2116 Allston Way APN 57-2030-2 Gaia Building PK	Tax Year	Missed Amount
		(to be back-billed)
	2003-04	\$37,014
	2002-03	\$35,261
	2001-02	\$0
	2000-01	\$0
		\$72,275

1910 Oxford Street APN 57-2047-2-1 The Berkeleyan PK	Tax Year	Missed Amount
		(to be back-billed)
	2003-04	\$18,962
	2002-03	\$18,065
	2001-02	\$17,423
	2000-01	\$14,000
		\$68,450

2002 Acton Street APN 56-1995-28-1 Acton Courtyard Apartments PK	Tax Year	Missed Amount
		(to be back-billed)
	2003-04	\$28,461
	2002-03	\$0
	2001-02	\$0
	2000-01	\$0
		\$28,461

2101 Milvia Street APN 57-2023-17-1 Artech Building PK	Tax Year	Missed Amount
		(to be adjusted)
	2003-04	\$(5,869)
	2002-03	\$0
	2001-02	\$0
	2000-01	\$0
		\$(5,869)

	Tax Year	Missed Amount
		(to be back-billed)
2161 Allston Way APN 57-2031-3 Oak Court Apartments	2003-04	\$20,239
	2002-03	\$19,282
	2001-02	\$0
	2000-01	\$0
		\$39,521

	Tax Year	Missed Amount
		(to be back-billed)
1631 University Avenue APN 57-2070-7-5 Renaissance Apartments	2003-04	\$12,703
	2002-03	\$12,102
	2001-02	\$11,672
	2000-01	\$9,381
		\$45,859

	Tax Year	Missed Amount
		(to be back-billed)
1536 Shattuck Avenue APN 59-2263-24-1 Bank of America	2003-04	\$6,714
	2002-03	\$6,389
	2001-02	\$6,158
	2000-01	\$0
		\$19,260

FUTURE ACTION

Staff will continue to review and refine the lists as described above, as well as to continue working on improving the various work processes and automated systems that feed data into the land database. The spotlight recently placed on the land data of the City has not altered the course staff was already on, but it has accelerated the pace and increased the priority for resource allocation. Effort will be focused in three areas: (1) a physical inventory of city parcels, (2) improvements in the building permit administrative process, and (3) tight and timely management of the "00" and "Exempt" property lists. Staff from the departments of Finance, Planning, and Information Technology comprises the team working on this project.

Staff will return to Council at regular intervals beginning in January 2004 to report the progress being made, identify barriers to completion, or request critical resources, if needed. The goal of the project is to assure timely closure of all building permits with accurate data entry, implement

improvements in the tax roll preparation process, and increase the accuracy level of the city's inventory of parcels within our boundaries, including land use.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are two potential fiscal impacts associated with the situation reported on in this report: (1) what revenue has been lost to the City as the result of missed properties or other errors in the tax and assessment preparation process; and (2) what additional resources may be needed in the future to strengthen work processes or eliminate information deficits?


In response to the amount of lost revenue, staff will make a complete report to Council in the next update in January. However, of the properties identified in this report, only The Berkleyan and the Artech buildings appear to have potential assessment problems going back beyond three years. The total amount of revenue lost to the city as a result of these two properties being incorrectly assessed or not assessed at all for one to two years is not clear, but is believed to be relatively small (i.e., under \$10,000 total.).

The concentrated effort now being placed in this area may require an unanticipated temporary reallocation of resources. Staff has not had an opportunity to identify all the programs that may be affected by this reallocation, and believes that ensuring a full and accurate tax assessment is critically important, particularly at a time of fiscal crisis. Staff will return no later than January 2004 should this effort have a significant impact on other priority projects and staff needs Council direction on priorities. Staff will return to Council no later than April 2004 with a full report on work processes improvements and on the status of collecting escaped taxes and assessments from any other parcels not already identified in this report, should any be identified.

CONTACT PERSON

Heather Murphy, Revenue Collection Manager – 981.7200

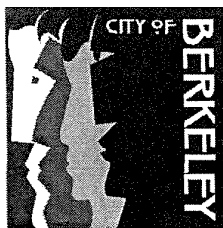
Approved:



Frances David, Finance Director

Cc Dan Marks, Planning Director
Chris Mead, Director of Information Technology

ATTACHMENT A



Finance Department
Office of the Director

October 24, 2003

TO: Honorable Mayor and
Members of the City Council

FROM: Weldon Rucker, City Manager

SUBJECT: Gaia Building and Tax Assessments

This memo is in response to questions that were raised during the special council meeting on October 21, 2003, regarding the City assessed taxes for the Gaia Building located at 2116 Allston Way (parcel 57-2030-2); and raising the allegation that the owners of the Gaia Building did not pay Berkeley assessments since the issuance of the Temporary Certificate of Occupancy (TCO). The allegation is accurate and staff was working on the matter prior to last Tuesday.

Properties escape the annual tax roles for a variety of reasons, and they always will no matter what billing or control system is implemented. It should be noted that the taxable status of a property, or the increased taxable square footage must be communicated from the City to the County in order to update the County records, from which the tax bills are generated. Although the City provides that information to the County, only the City uses the square footage information to calculate our own tax assessment amounts. We are dependant upon the County to update land use codes correctly, particularly since they determine if a property is an exempt agency (e.g., COB, UC, BUSD, BART, etc).

Generally, when a property is developed, its building square footage and land use code are updated in the City's land database when a final Certificate of Occupancy (CO) is issued. This information is then used to calculate the various taxes and assessments, and is communicated to the County in a regular process. The following taxes and assessments are based on the square footage of improvements on the parcel: Parks, Library, Street Lighting, Paramedic, Severely Disabled, Mello Roos, and School taxes.

Quite a few years ago, staff implemented a process for internal notification for property assessment – and the software based on that policy – to capture new square footage upon the issuance of a final

CO. However, it is a common practice to issue a TCO when a building is almost complete and safe to occupy, but when minor modifications are still required to fully comply with the building code and/or zoning ordinance. The original policy and resulting procedure had not yet been modified to reflect TCO's.

Prior to this last Tuesday, the Finance, Planning, and Information Technology departments were already working together to modify our process to capture properties issued a TCO, as well as identify any other ways in which the process can be improved to ensure timely and complete assessments. And, as part of the regular post tax review, staff had already identified the Gaia property as being eligible for taxation, and the Finance Department was in the process of billing the property for the current tax year, and applicable past years as well.

Staff is constantly reviewing properties, many of which are back billed for taxes as appropriate. Despite our best efforts, the County tax process and our staff do not always identify each and every escaped property each year. For example, as part of this citizen process, an additional property has been brought to our attention: the Berkleyan LLC property located at 1910 Oxford Street. Taxes should have started to be assessed effective 7/1/01, but were not. This property will also be back billed immediately.

This situation is only one of a variety of reasons why a property might escape City of Berkeley taxes and assessments for a few years. There are likely other buildings and properties besides the two identified herein. Staff from all three involved departments is working to develop cost-effective techniques to identify escaped assessments in a more timely fashion. We will return to Council by March 2004 with a more complete report defining the extent of the problem and our implemented solution. In the meantime, staff will continue to identify and capture escaped properties as part of the regular post-tax roll process and the on-going improvement of the processes as described herein.

I'd like to thank Ms. Barbara Gilbert and Ms. Vicki Tamaradze for their diligent work in reviewing the City's escaped assessments, as well as reviewing the properties within the City that have a tax exemption from the County. The City always welcomes the constructive review and participation of its concerned and very talented citizens.

cc: Ann Marie Hogan, City Auditor
Frances David, Director of Finance
Chris Mead, Director of Information Technology
Dan Marks, Director of Planning
Sherry Kelly, City Clerk
Manuela Albuquerque, City Attorney

2003-2004

ATTACHMENT B

For Fiscal Year Beginning July 1, 2003 and Ending June 30, 2004

ALAMEDA COUNTY
SECURED PROPERTY TAX STATEMENT
 Donald R. White, Treasurer and Tax Collector
 1221 Oak Street
 Oakland, California 94612-4285

Parcel Number	Tracer Number	Tax-Rate Area	Special-Handling
58-2165-30	137704	13-000	

Location of Property

Assessed to on January 1, 2003



Tax-Rate Breakdown		
Taxing Agency	Tax Rate	Tax Amount
COUNTYWIDE TAX	1.0000%	349.84
VOTER APPROVED DEBT SERVICE :		
CITY OF BERKELEY	.0725%	25.36
SCHOOL UNIFIED	.1728%	60.45
SCHOOL COMM COLL	.0159%	5.56
EAST BAY REGIONAL PARK	.0057%	1.99
EBMUD SPEC DIST 1	.0079%	2.76
TOTAL	1.2748%	445.96

Fixed Charges and/or Special Assessments		
Description	Phone	Amount
CITY ST LIGHTING	(510)981-7200	21.14
CITY LANDSCP/PARK	(510)981-7200	192.40
CITY REFUSE COLLN	(510)981-7270	1,798.78
CITY LIBRARY SVC	(510)981-7200	252.84
MOSQUITO ABATEMENT	(510)783-7744	.80
CSA PARAMEDIC	(510)618-2055	24.32
CSA VECTOR CONTROL	(510)567-6800	5.92
PARAMEDIC SUPPLMNT	(510)981-7200	51.10
CSA LEAD ABATEMENT	(510)567-8280	10.00
BERKELEY SCHL TAX	(510)981-7200	240.52
SCHOOL MAINTENANCE	(510)981-7200	92.96
AC TRANSIT MEAS AA	(800)299-1190	24.00
PHYS. DISABLED	(510)981-7200	18.22
CFD1,DISASTER FIRE	(510)981-7200	24.46
EBMUD WETWEATHER	(510)287-1682	58.80
EAST BAY TRAIL LLD	(800)273-5167	5.44
CLEAN STORM WATER	(510)981-7200	50.42
Total Fixed Charges and Special Assessments		2,872.12

Tax Computation Worksheet			
Description	Full Valuation	x Tax Rate	= Tax Amount
LAND IMPROVEMENTS	27,256		
FIXTURES	14,728		
TOTAL REAL PROPERTY	41,984		
PERSONAL PROPERTY			
GROSS ASSESSMENT & TAX	41,984	1.2748%	535.19
HOMEOWNERS EXEMPTION	7,000	1.2748%	89.23-
OTHER EXEMPTION			
NET ASSESSMENT AND TAX	34,984	1.2748%	445.96
			445.96
First Installment	Second Installment	Total Amount Due	
\$1,659.04	\$1,659.04	\$3,318.08	

Important Messages

\$10.00 SERVICE CHARGE ON ANY RETURNED CHECK.

IF YOUR TAXES ARE PAID THROUGH ESCROW (SAVINGS & LOAN OR MORTGAGE COMPANY), IT IS YOUR RESPONSIBILITY TO FORWARD THIS BILL TO YOUR AGENT.

YOU MAY PAY YOUR PROPERTY TAXES USING VISA, MASTERCARD, DISCOVER, BRAVO OR PRIVATE ISSUE CREDIT CARDS OVER THE TELEPHONE 24 HOURS A DAY, SEVEN DAYS A WEEK OR ONLINE @ www.acgov.org. A CONVENIENCE FEE WILL BE ADDED UPON COMPLETION OF THE PAYMENT PROCESS.
 Please See Reverse for More Tax Information

SECOND INSTALLMENT PAYMENT, 2003-2004

PARCEL NO. 58-2165-30
 TRACER NO. 137704

2

THIS AMOUNT DUE FEB. 1, 2004 → **\$1,659.04**

Pay this amount after April 10, 2004
 (This includes delinquent penalty of 10% and \$10.00 cost)
\$1,834.94

Do Not Use This Stub After June 30, 2004
SEND THIS STUB WITH YOUR SECOND PAYMENT

Make checks payable to: Donald R. White, Tax Collector, Alameda County

Your cancelled check is your receipt.

02004 5137704002 4000165904 00000000

FIRST INSTALLMENT PAYMENT, 2003-2004

PARCEL NO. 58-2165-30
 TRACER NO. 137704

1

THIS AMOUNT DUE NOV. 1, 2003 → **\$1,659.04**

Pay this amount after December 10, 2003
 (This includes delinquent penalty of 10%)
\$1,824.94

Do Not Use This Stub After June 30, 2004
SEND THIS STUB WITH YOUR FIRST PAYMENT

\$3,318.08
 Make checks payable to: Donald R. White, Tax Collector, Alameda County

Your cancelled check is your receipt.

02004 7137704001 4000165904 00000000

Tax Collector's Office
 Payment Questions/Credit Card Payments
 (510) 272-6800

Assessor's Office
 Valuation/Exemption
 (510) 272-3787 (510) 272-3770