

STATE OF CALIFORNIA  
LEGAL DEPARTMENT

San Francisco, California,  
January 23, 1940.

Honorable Harry B. Riley,  
State Controller,  
Sacramento, California.

ATTENTION: MR. VOLNEY VAN DYKE,  
ASSISTANT REDEMPTION TAX SUPERVISOR.

Sir:

I have before me your communication of January 16, 1940, wherein you asked to be advised whether a Board of Supervisors of a particular county could, by appropriate resolution, rescind its prior action whereby it approved, pursuant to section 3834.14 of the Political Code, the sale of tax dedeed land

The facts involved in your problem may be briefly stated as follows:

An applicant to purchase property that had been deeded to the State of California for nonpayment of delinquent county taxes advanced the costs of advertising the same at the time he submitted his written application to the Tax Collector of the county involved. The latter official submitted this application to the Board of Supervisors who by an appropriate resolution, approved the sale pursuant to

section 3834.14 of the Political Code. Thereafter the Tax Collector submitted the resolution of approval to you and, acting pursuant to Section 3834.16 of the Political Code, you gave your written authorization. The notices of sale, required by section 3834 of the Political Code, were given i. e. written notice to the former owner, and other taxing agencies together with two of the three publications. However, after the second publication, the Board of Supervisors purported to rescind their former action by adopting two resolutions i. e. one notifying the Tax Collector of their objections to the sale and the other purporting to rescind their prior resolution consenting to the same, and ordering the Tax Collector not to take any further steps in regard to the contemplated sale.

It is my opinion that the administrative action taken by the Board of Supervisors pursuant to Section 3834.14, supra, cannot be rescinded by a subsequent resolution of said Board. That Board had the power to approve or reject the proposed sale of the tax deeded land. Having taken action by adopting a resolution consenting to the sale, it is my opinion that their action was final and could not, in the absence of fraud or statutory authorization be rescinded.

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See

Michigan Lend and Lumber Co. v. Rust, 168 U. S.  
589, 594.

People v. Cantor, 180 N. Y. S. 153, 155.

The action taken by the Board of Supervisors was administrative or quasi-judicial in nature, and it is my opinion that a doctrine analogous to estoppel or res adjudicata is applicable herein.

In order to have some semblance of finality to such action taken by such Board, it is my opinion that when they have taken a position, with all the facts before them, such action should be regarded as final and conclusive, unless as we have stated above, there is fraud involved or there is statutory authorization for such review and rescission

Very truly yours,

EARL WARREN, ATTORNEY GENERAL

BY

*James J. Arditto*

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