

Bond Case Briefs

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Carloss v. County of Alameda

Court of Appeal, First District, Division 3, California - November 12, 2015 - Cal.Rptr.3d - 2015 WL 7008872

Son of deceased former resident of tax-defaulted property brought action against county for declaratory relief challenging county's denial of son's claim for excess proceeds of the tax sale. The Superior Court sustained demurrer without leave to amend. Son appealed.

The Court of Appeal held that:

- Statute of limitations began to run when decision was mailed, and
- Recorded grant deed is not the exclusive means of proving a person's "title of record."

The 90-day statute of limitations for an action to review the decision of a board of supervisors on a claim for excess proceeds from a default tax sale begins to run from the date the decision is mailed.

A petition for writ of administrative mandamus was the proper method for the son of a deceased former resident of tax-defaulted property to challenge county's denial of son's claim for excess proceeds of the tax sale, even though son argued that the refund statute was facially unconstitutional, where son's complaint and appeal rested primarily on the contention that the statute, even if constitutional on its face, was interpreted too narrowly by the county when ruling on his claim.

While a recorded grant deed may be the best evidence of "title of record" establishing a claimant's right to excess proceeds from a default tax sale, a recorded grant deed is not the exclusive means of proving a person's title of record, and such proof may consist of recorded instruments of various types, the assessor's records, and testimony that, as a whole, establishes that the claimant or the claimant's predecessor in interest held title of record immediately prior to the tax-default sale.