

# MC CREARY, VESELKA, BRAGG & ALLEN, P.C.

## REPORT ON DELINQUENT PROPERTY TAX COLLECTIONS

*for the*

### COUNTY OF MILAM

MVBA appreciates the opportunity to be of service to *The County of Milam* in the collection of delinquent property taxes.

The goal of our tax collection program is to collect the greatest amount of tax in the shortest period of time. *McCreary, Veselka, Bragg & Allen, P.C. (MVBA)* believes it has met this goal for *The County of Milam*.

Tax Collections generally fall into two categories, *current tax collections*, the collection of the current levy of taxes within the fiscal year in which they are assessed, and *delinquent tax collections*, taxes that are unpaid and referred to a law firm for collection. It is our belief that an effective delinquent tax collection program will not only result in the quick recovery of delinquent taxes, but will also enhance current collections. When the taxpaying public is aware that the *County* aggressively, but fairly, pursues unpaid taxes, there is more incentive for a property owner to timely pay their current taxes.

The following are some of the significant points contained in our report:

#### Collection of Tax Levy to Date

- ❑ As of September 30, 2011, the *County* has collected from 98.65% to 99.71% of the taxes that were levied for 2010, 2009, 2008, 2007, and 2006. (*Chart 1*)

#### Delinquent Tax Collections

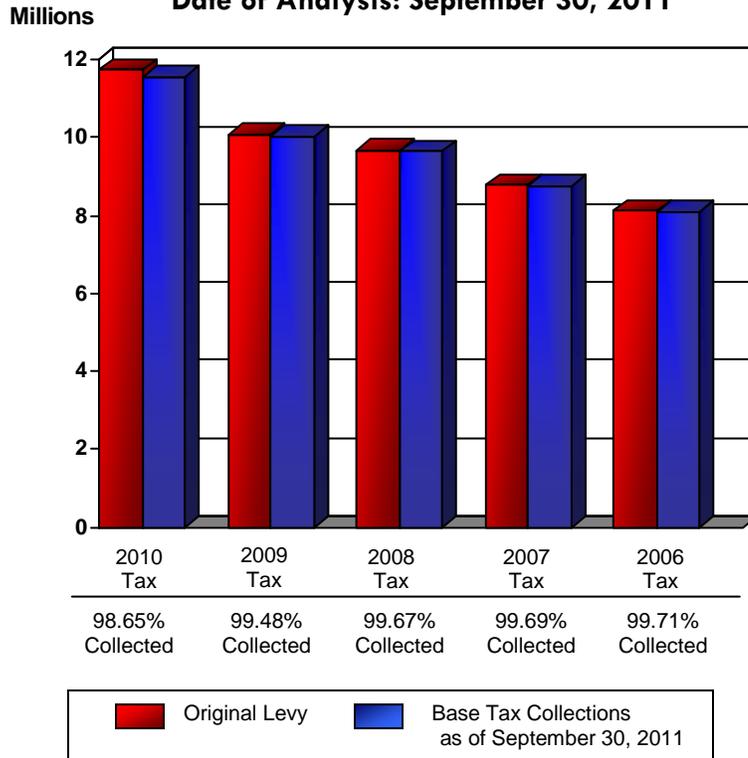
- ❑ MVBA has collected **84.71%** of the 2009 taxes referred to MVBA in July 2010, **89.89%** of the 2008 taxes referred to MVBA in July 2009, **90.55%** of the 2007 taxes referred to MVBA in July 2008, and **92.58%** of the 2006 taxes referred in July 2007. (*Charts 2 through 6*)
- ❑ In order to collect the *County's* delinquent taxes during the period from July 1, 2009 through September 30, 2011, MVBA has:
  - Sent over **14,300** Delinquent Tax Notices
  - Filed **503** Delinquent Tax Suits
  - Recovered **227** Judgments, and
  - Posted for sale **205** properties



## CURRENT TAX COLLECTIONS

**Chart 1**

**Tax Levy vs. Collection of Levy to Date**  
 Date of Analysis: September 30, 2011



**Chart 1** and the Table below show the amount of the tax levy for the past five years and the amount and percentage of each year's tax levy that has been collected through September 30, 2011. Amounts shown are exclusive of penalties and interest.

It is a historical reality that a small percentage of each year's tax levy will be uncollectible due to a number of reasons such as insolvent business personal property accounts, bankruptcies, and the fact that some property owners are judgment proof. Therefore, the cumulative percent collected, while extremely high, will never be one-hundred percent.

<b>THE COUNTY OF MILAM</b>				
<b>COLLECTION OF TAX LEVY THROUGH 9-30-11 (CHART 1)</b>				
Tax Year	Original Tax Levy	Tax Remaining Due September 30, 2011	Cumulative Collection of Tax Levy September 30, 2011	Cumulative Percent Collected
2010*	\$11,726,823	\$158,529	\$11,568,295	98.65%
2009	\$10,067,705	\$52,551	\$10,015,154	99.48%
2008	\$9,671,667	\$31,883	\$9,639,784	99.67%
2007	\$8,781,332	\$27,171	\$8,754,161	99.69%
2006	\$8,124,398	\$23,584	\$8,100,814	99.71%

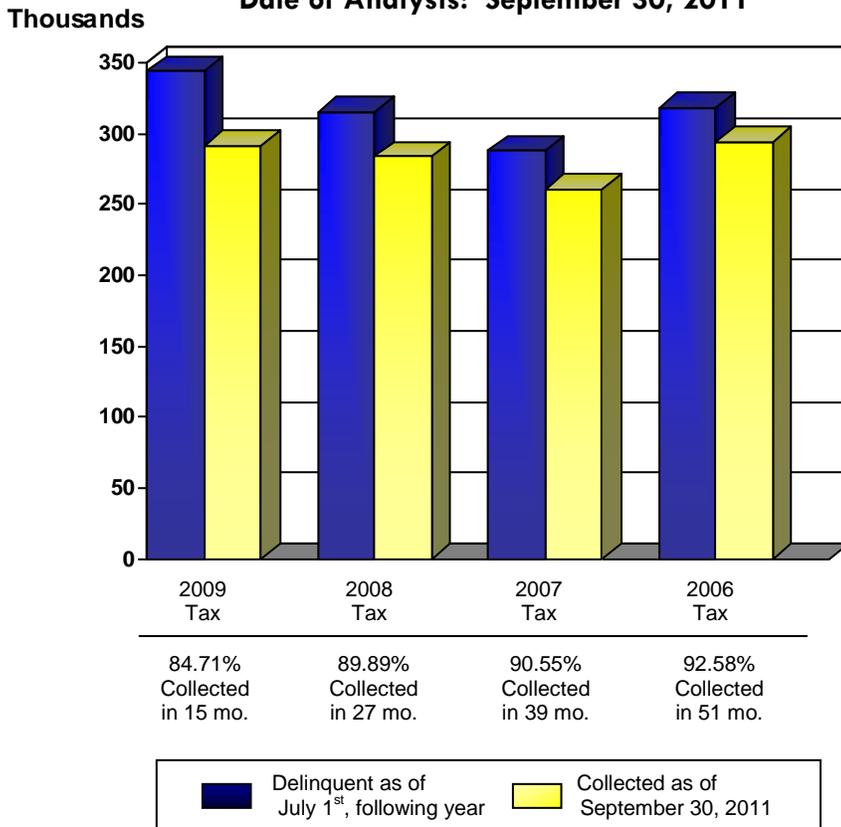
\* 2010 Delinquent Taxes were referred to MVBA for collection on July 1, 2011.



## COLLECTION OF DELINQUENT TAXES

**Chart 2**

**Original Delinquency vs. Delinquent Tax Collections**  
 Date of Analysis: September 30, 2011



**Chart 2** and the Table below show the amount of each year’s tax levy which was still due on July 1<sup>st</sup> of the first year of delinquency and the cumulative amount which has been collected as of September 30, 2011. The percentages shown reflect the amount of the tax collected by **MVBA** for that particular tax year. *Amounts shown are exclusive of penalties and interest.*

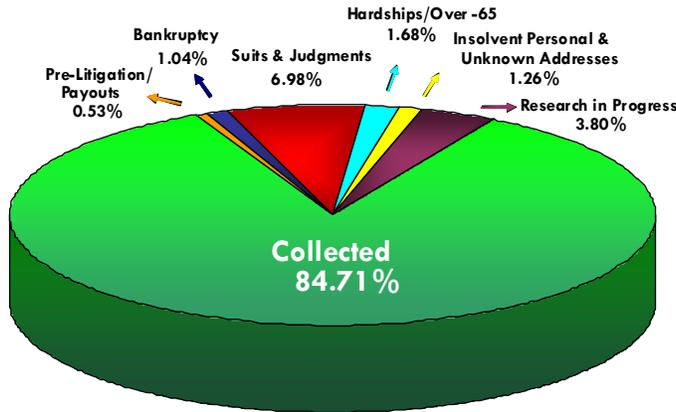
Chart 1 on the previous page reflects that for the tax year’s 2008, 2007, and 2006 less than **one-half of one percent** of the original tax levy remains outstanding for each of these tax years as of September 30, 2011.

TXU mails the balance of its tax payment for the current tax year on June 30<sup>th</sup> of each year. The payment is actually received by the tax office after July 1<sup>st</sup> of each year. The July 1<sup>st</sup> “original delinquency” does not include the TXU taxes which reflect due on the tax office report as of June 30<sup>th</sup> of each year. Accordingly, the amount shown in the table is the “true” original delinquency.

<b>THE COUNTY OF MILAM</b>					
<b>COLLECTION OF TAXES DELINQUENT THROUGH 9-30-11 (CHART 2)</b>					
Tax Year	July 1 <sup>st</sup> Original Delinquency	Tax Remaining Due September 30, 2011	Cumulative Delinquent Tax Collections September 30, 2011	Cumulative Percent Collected	Months of Collection Activity
2009	\$343,777	\$52,551	\$291,226	84.71%	15
2008	\$315,352	\$31,883	\$283,469	89.89%	27
2007	\$287,629	\$27,171	\$260,458	90.55%	39
2006	\$317,907	\$23,584	\$294,323	92.58%	51

### COLLECTION STATUS OF 2009 DELINQUENT TAXES

**Chart 3**



As of September 30, 2011, **MVBA** has collected **84.71%** of the 2009 taxes that were referred to us 15 months ago on July 1, 2010.

Category	Amount	Percent
Total Due (7/1/10)	\$343,777	
<b>Collected</b>	<b>\$291,226</b>	<b>84.71%</b>
Pre-Litigation Payouts	\$1,834	0.53%
Bankruptcy	\$3,586	1.04%
Suits & Judgments	\$23,984	6.98%
Hardships/Over -65	\$5,770	1.68%
Insolvent Personal & Unknown Addresses	\$4,329	1.26%
Research in Progress	\$13,048	3.80%

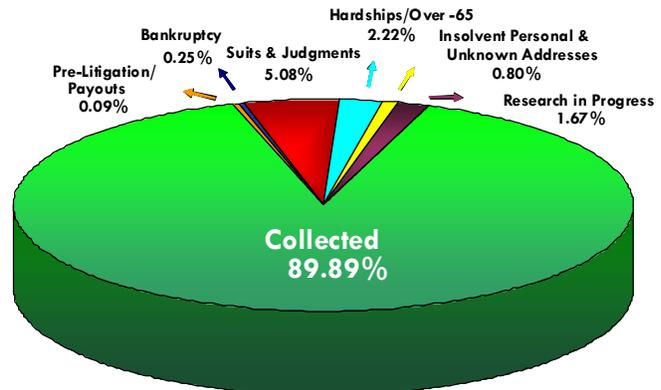
**2009 Delinquent Taxes Due as of July 1, 2010: \$343,777**  
**2009 Delinquent Taxes Collected thru September 30, 2011: \$291,226**

### COLLECTION STATUS OF 2008 DELINQUENT TAXES

As of September 30, 2011, **MVBA** has collected **89.89%** of the 2008 taxes that were referred to us 27 months ago on July 1, 2009.

**Chart 4**

Category	Amount	Percent
Total Due (7/1/09)	\$315,352	
<b>Collected</b>	<b>\$283,469</b>	<b>89.89%</b>
Pre-Litigation Payouts	\$285	0.09%
Bankruptcy	\$789	0.25%
Suits & Judgments	\$16,028	5.08%
Hardships/Over -65	\$6,998	2.22%
Insolvent Personal & Unknown Addresses	\$2,517	0.80%
Research in Progress	\$5,266	1.67%

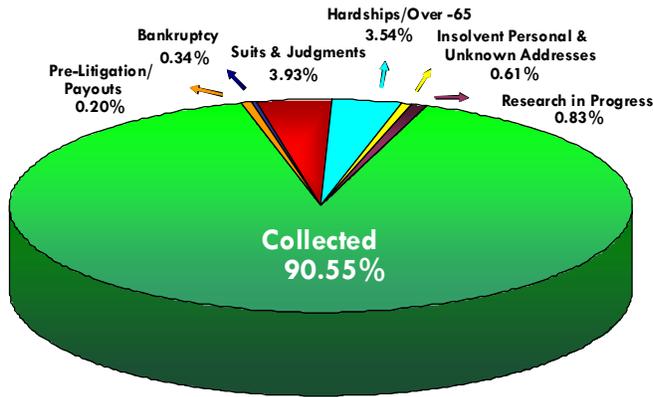


**2008 Delinquent Taxes Due on July 1, 2009: \$315,352**  
**2008 Delinquent Taxes Collected thru September 30, 2011: \$283,469**

## COLLECTION STATUS OF 2007 DELINQUENT TAXES

As of September 30, 2011, **MVBA** has collected **90.55%** of the 2007 taxes that were referred to us 39 months ago on July 1, 2008.

**Chart 5**



Category	Amount	Percent
Total Due (7/1/08)	\$287,629	
<b>Collected</b>	<b>\$260,458</b>	<b>90.55%</b>
Pre-Litigation Payouts	\$583	0.20%
Bankruptcy	\$978	0.34%
Suits & Judgments	\$11,293	3.93%
Hardships/Over -65	\$10,168	3.54%
Insolvent Personal & Unknown Addresses	\$1,756	0.61%
Research in Progress	\$2,393	0.83%

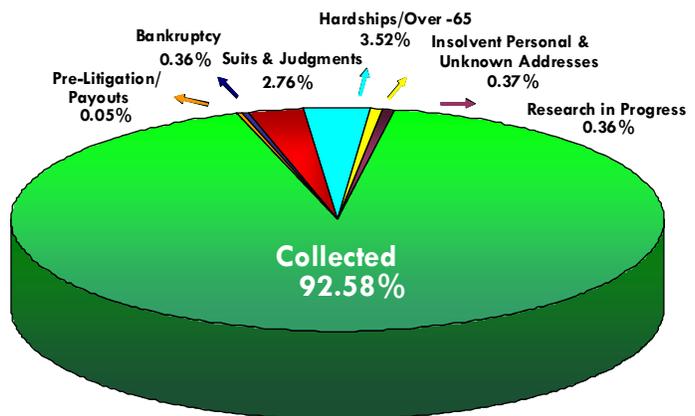
**2007 Delinquent Taxes Due on July 1, 2008: \$287,629**  
**2007 Delinquent Taxes Collected thru September 30, 2011: \$260,458**

## COLLECTION STATUS OF 2006 DELINQUENT TAXES

As of September 30, 2011, **MVBA** has collected **92.58%** of the 2006 taxes that were referred to us 51 months ago on July 1, 2007.

**Chart 6**

Category	Amount	Percent
Total Due (7/1/07)	\$317,907	
<b>Collected</b>	<b>\$294,323</b>	<b>92.58%</b>
Pre-Litigation Payouts	\$157	0.05%
Bankruptcy	\$1,129	0.36%
Suits & Judgments	\$8,786	2.76%
Hardships/Over -65	\$11,188	3.52%
Insolvent Personal & Unknown Addresses	\$1,182	0.37%
Research in Progress	\$1,142	0.36%



**2006 Delinquent Taxes Due on July 1, 2007: \$317,907**  
**2006 Delinquent Taxes Collected thru September 30, 2011: \$294,323**



This outstanding level of collections did not simply happen. We have worked diligently collecting these taxes. MVBA has conducted a comprehensive delinquent tax collection program which provides for:

- (1) Regular and systematic mailing of all delinquent tax notices to delinquent property owners;
- (2) Thorough title examinations and ownership verification on selected delinquent tax records;
- (3) Pre-litigation notices to all property owners and lienholders on each delinquent tract of real property; and
- (4) The filing and prosecuting of delinquent tax suits to judgment and the final sale of the property to satisfy the tax delinquency if payment arrangements were not satisfactorily made.

We believe that these charts graphically depict the results of MVBA's aggressive delinquent tax collection program.

### ANALYSIS OF TOTAL BALANCE OF DELINQUENT TAXES

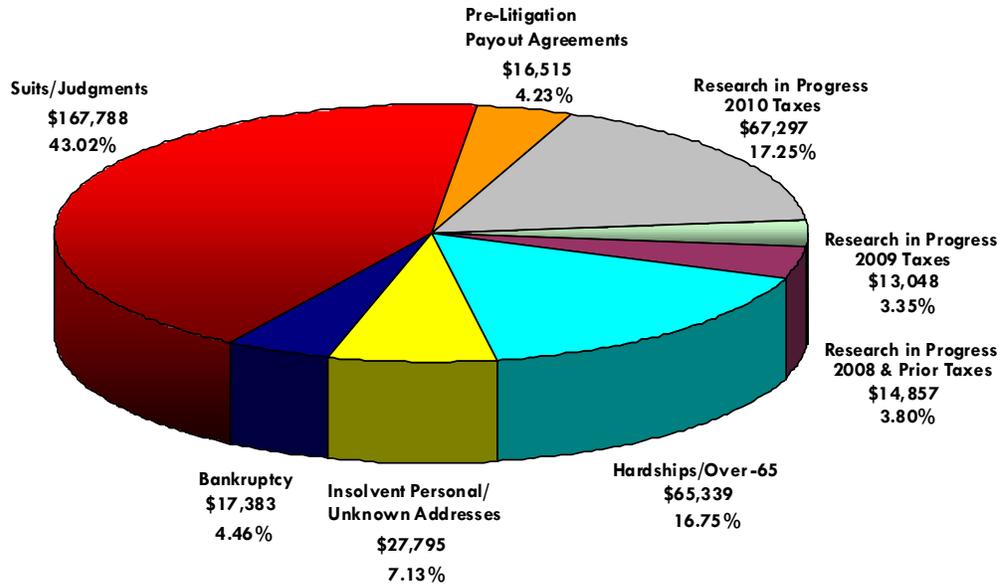
The total balance of delinquent taxes due for the tax years 2010 and prior was \$390,022 as of September 30, 2011, which is the **residual balance** of all property taxes assessed by the County over the past **twenty (20) years**. The County has collected from 98.65% to 99.71% of the tax levy for the tax years 2010, 2009, 2008, 2007, and 2006 (see Chart 1, pg. 2). MVBA has collected a very high percentage of the delinquent taxes referred to us (see Chart 2, pg. 3). It is these small percentage amounts that remain outstanding for each tax year which, in the aggregate, constitute the total delinquent tax balance.

**CHART 7** on the following page, entitled Collection Activity Status of All Delinquent Property Taxes as of September 30, 2011, reflects the collection classification of all delinquent taxes for the past twenty (20) years remaining due on September 30, 2011. The data in Charts 3, 4, 5 and 6 shows a very high percentage of the 2009, 2008, 2007, and 2006 delinquent taxes which were referred to MVBA have been collected.

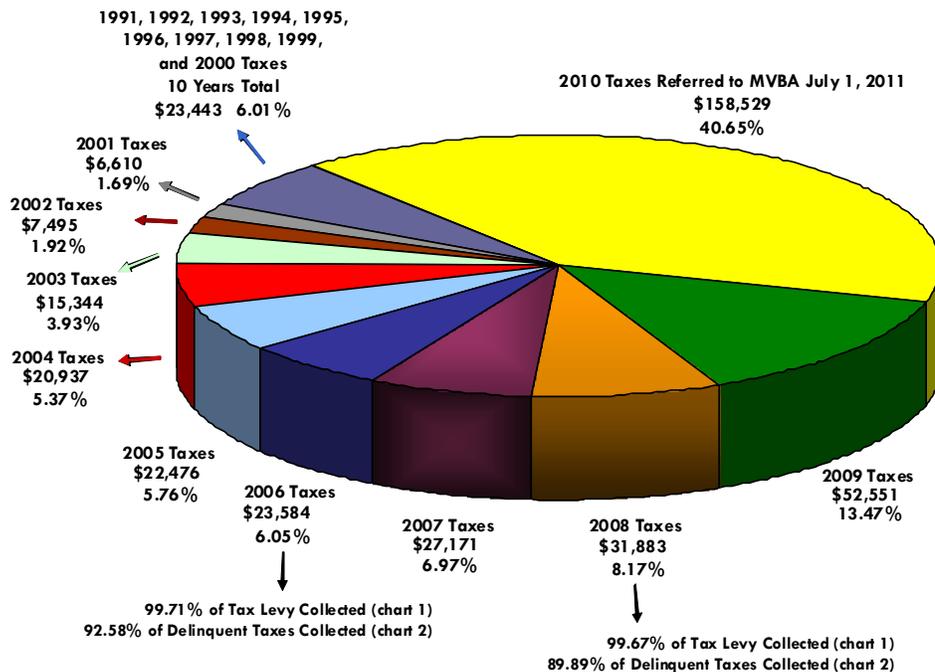
**CHART 8** on the following page, entitled Delinquent Taxes Due by Tax Year, reflects the amount of the tax levy for each tax year remaining outstanding, as of September 30, 2011, in comparison to the total delinquent taxes for all years. Over fifty-four percent (54.12%) of the delinquent taxes outstanding are for the tax year 2010 and 2009 of which most will be collected over the next two years.

The 2010 delinquent taxes were only referred to MVBA for collection on July 1, 2011.

**Chart 7**  
**Status of Delinquent Property Taxes**  
**as of September 30, 2011**



**Chart 8**  
**Delinquent Taxes Due by Tax Year**  
**as of September 30, 2011**



**Total Delinquent Taxes for 2010 & Prior Tax Years: \$390,022**  
**as of September 30, 2011**



## **DEFINITIONS AND COMMENTS REGARDING CHARTS 3 through 7**

### **Lawsuits/Judgments**

MVBA files delinquent tax suits for the collection of delinquent taxes. Often property owners enter into payment arrangements subsequent to the filing of suit. Further prosecution of these delinquent tax suits is abated as long as the taxpayer complies with the payout agreement. If the property owner makes no effort to pay after suit is filed and citation is served, or if the taxpayer defaults on a payout agreement, judgment is sought. If taxes remain unpaid, subsequent to judgment, an order of sale is issued and the property is posted for sale.

### **Bankruptcy**

When a property owner files bankruptcy collection activity is prohibited under the United States Bankruptcy Code. MVBA monitors the progress of bankruptcy cases and filed appropriate motions and objections with the Bankruptcy Court to insure that the tax claims and the tax liens are accorded the highest possible priority. The amount of the claims that will ultimately be paid, particularly in Chapter 7 cases, cannot be estimated.

### **Insolvent Personal & Unknown Addresses**

Tax accounts on which delinquent notices mailed by MVBA have been returned to us by the U. S. Postal Service as undeliverable or accounts for which the Appraisal District or Tax Office has been unable to determine an address. MVBA is engaged in an extensive address research program. When new addresses are found, notices are promptly sent. However, without an accurate address personal property delinquent taxes are, as a practical matter, uncollectible. Some of these accounts represent mobile homes that are no longer in the County. In most cases, the Appraisal District has no knowledge of the whereabouts of the owners of these mobile homes. These accounts are uncollectible because collection activity against the owners is effectively precluded. There are numerous business personal accounts where the business is no longer operating. When a business ceases operation, often the owner leaves the County and/or State. Even if the owners of the business can be located, they are usually "judgment proof". Many of these businesses were corporations which are either defunct or have no assets. The whereabouts of the owners of a few real property accounts are unknown. These are unimproved lots or vacant acreage tracts making it extremely difficult to locate the owners. In some cases, the record owners are deceased and their heirs are unknown or cannot be located. The owners of these vacant and abandoned properties will be served with citation by publication and the properties sold at tax sales.

### **Pre-Litigation Payouts/Deferrals & Hardships**

Property owners enter into written installment payment agreements pursuant to §33.02 of the Property Tax Code prior to suit being filed. These payment agreements are tailored to the individual taxpayer's ability to pay based on their particular financial problems. As a result of the payout agreements, a steady flow of tax payments is received.

There are also, taxpayers who have claimed the over-65 deferral provided by the Tax Code, which prevents the collection of the delinquent taxes assessed against their homesteads. In addition, a few property owners have been designated as hardship cases. Hardship cases are those in which the property owners have documented severe medical conditions or acute financial problems that warrant unusual consideration. Designation as a hardship merely delays collection but does allow for the eventual collection of the taxes.

### **Research in Progress**

This segment refers to those accounts, which do not have any known impediment to the collection process or specific collection activity pending. MVBA has sent several notices of delinquency on each account. We are continuing to place additional accounts under litigation. However, we stress that there may be circumstances which may preclude the collection of some of these taxes. These may include bankruptcies, insolvent or closed businesses, hardship cases, and/or incorrect addresses which are unknown. Nevertheless, MVBA will continue to use all appropriate measures to collect the maximum amount of revenue possible given the circumstances.



# DELINQUENT PROPERTY TAX COLLECTION ACTIVITY

July 1, 2009 through September 30, 2011

## TAXPAYER NOTIFICATION

Our experience has proven that the right notice to the right person at the right time results in the successful collection of delinquent taxes for our clients. It is for this reason that *McCreary, Veselka, Bragg & Allen, P.C.* has made written communication an integral part of our successful tax collection program. Before filing suit, we send a series of notices to inform property owners of their tax delinquency and to alert them of the action we will take to collect those taxes. Listed below are various types of notices that *MVBA* sends.

We collect a significant portion of delinquent taxes simply by giving the proper attention to address research. *MVBA* meticulously researches accounts with unclear or incorrect addresses using motor vehicle records, internet databases, telephone directories, city directories, utility records, voter registration records, assumed name files and the records of the Secretary of State. When *MVBA* acquires a new address, we immediately contact the property owner to document the tax delinquency. Additionally, we inform the Tax Office of the newly acquired address so that it may update the tax records.

July 1, 2009 through September 30, 2011	
Type of Notices	Number of Notices
<i>33.07 Notices</i> are sent by <i>MVBA</i> in May of each year informing property owners of the penalty to be added on current year taxes if not paid prior to July 1st.	5,516
<i>Initial Notices</i> are polite, but pointed, notices designed to remind the delinquent property owner of their tax liability and urging voluntary payment of the taxes due.	7,339
<i>Delinquent Notices</i> are more insistent notices requiring payment of the delinquent taxes and inform the property owner that a tax lien has attached to their property and they are personally liable for the tax.	1,514
<b>TOTAL NOTICES</b>	<b>14,369</b>



## TITLE RESEARCH & ADDITIONAL NOTICES

Prior to initiating litigation, MVBA conducts thorough examination and verification of title and ownership of all delinquent property accounts. We diligently research all available title and property records, including deeds, deeds of trust and probate records in order to accurately identify all parties with a potential ownership interest in the subject property. All parties deemed to hold an interest in the property are informed of the potential legal action through written correspondence.

*Lienholder Notices* are sent to financial institutions, businesses and individuals with a lien on property on which taxes are in arrears. Lienholders are notified that MVBA is preparing to file a suit for delinquent that may extinguish their interest in the property should those taxes remain unpaid.

*Foreclosure Notices* are sent to all parties with an interest in the property. This advises them that a delinquent tax suit will be filed to satisfy the tax delinquency through eventual sale of the property and may ultimately terminate their interest in the property.

*New Owner Notices* are sent to persons who MVBA has determined have recently acquired property on which there are delinquent taxes, and who have not received a prior tax notice.

*Suit Notices* are sent to property owners who have already been sued, informing them that unless the delinquent tax is satisfied, personal liability judgment will be rendered against them and their property.

Once judgment has been obtained in a delinquent tax suit, *Notices of Intent to Sell Property* are sent to notify property owners that their property may be sold in an upcoming tax sale unless the delinquent taxes and costs of sale are paid.

July 1, 2009 through September 30, 2011		
Type	Number of Notices	Number of Properties
Lienholder Notices	95	113
Foreclosure Notices	227	389
New Owner Notices	26	33
Suit Notices	314	548
Notices of Intent to Sell Property	109	130



## LITIGATION

MVBA files delinquent tax suits when property owners and all other parties whom MVBA has determined to have an interest in the property fail to respond to the notices sent to them. Delinquent tax suits filed by MVBA seek a personal judgment against the property owner and foreclosure of the tax lien and sale of the property to satisfy the tax delinquency. When all delinquent taxes, penalties and interest, and all costs of court have been paid, the lawsuit is dismissed against both the property owner and the property.

July 1, 2009 through September 30, 2011		
Type	Number of Suits	Number of Properties
District Court Suits	503	728

## JUDGMENTS

When all Defendants have been properly served with citation, MVBA requests a hearing in the District Court for the entry of a judgment. All defendants to the lawsuit are notified of the hearing date as provided by law. At the hearing, MVBA obtains a judgment authorizing sale of the property for recovery of delinquent taxes, penalties and interest and court costs owed. Most judgments also provide for personal liability for the amounts due against the property owner(s). Abstracts of Judgments are filed against the property owner(s) creating a judgment lien against all of the property owner(s) non-exempt property. When the property owner pays the taxes, penalties, interest and court costs due after a judgment is entered and an abstract of judgment is filed, the judgment is released.

July 1, 2009 through September 30, 2011		
Type	Number of Judgments	Number of Properties
Judgments	227	362



## TAX SALES

Tax sales are conducted after judgments authorizing the foreclosure of the tax liens on property are obtained from the Court. MVBA prepares an Order of Sale for the District Clerk to issue, ordering the Sheriff to conduct a public sale of the property on the front steps of the Courthouse. MVBA has a Notice of Sale published in the local newspaper and delivers by certified mail a copy of the Notice of Sale to the property owner(s) and any lienholders on the property. MVBA prepares the “bid sheet” for distribution to potential buyers containing the minimum bid for the property as set by the provisions of the Texas Tax Code. On the day of the sale, MVBA assists the Sheriff in conducting the tax sale and collecting the proceeds of the sale. MVBA drafts the deeds for the signature of the Sheriff. We also complete the Sheriff’s Return on the Order of Sale and provide instructions for the distribution of the proceeds of the tax sale to the District Clerk for payment of the court costs incurred and to the tax office to be applied to the tax delinquency.

Often, a property owner will pay the delinquent taxes prior to the sale date or enter into an acceptable installment payment plan. All installment payment plans are monitored for compliance. If a default is made on an installment payment plan, the property is again posted for sale.

There may be property that does not receive the minimum bid required at the tax sale. In such instances, pursuant to the provisions of the Texas Tax Code, the property is bid “in trust” to one of the taxing units which levies taxes on the property. After the deed is recorded conveying the property to the trustee taxing unit, “in trust”, MVBA coordinates in the prompt resale of “trust” property.

July 1, 2009 through September 30, 2011				
Date of Sale	Properties Posted for Sale*	Properties Paid/Payout	Properties sold to third parties	Properties Bid into Trust
September 2, 2009	28	11	8	9
December 1, 2009	48	12	14	22
April 6, 2010	31	10	12	9
July 6, 2010	28	12	10	6
December 7, 2010	25	7	12	6
March 1, 2011	22	9	11	2
June 7, 2011	23	12	2	9
<b>TOTAL</b>	<b>205</b>	<b>73</b>	<b>69</b>	<b>63</b>

\* Total includes resale properties



## BANKRUPTCY LITIGATION

McCreary, Veselka, Bragg & Allen's bankruptcy department closely supervises those individuals and corporations that file for protection under the bankruptcy laws who owe taxes. Through our fully computerized bankruptcy tracking system, MVBA files and monitors all claims for taxes owed by the bankrupt debtor. Proofs of Claim are filed by MVBA to assert the amount of tax, penalty and interest due when the bankruptcy is filed. Administrative claims are filed to seek recovery of taxes that arise after the debtor has filed bankruptcy. Our attorneys review all Motions and Plans for Reorganization filed by the debtor or any other creditor with the Bankruptcy Court, aggressively assert the tax claims, and defend the tax liens of our clients to the fullest extent allowed under the Bankruptcy Code.

July 1, 2009 through September 30, 2011		
Type	Number of Bankruptcies	Number of Properties
Proofs of Claim	18	35
Objections to Chapter 11 Plan	2	
Objections to Sale	1	

## FEE FOR SERVICES

MVBA provides all legal representation for a contingent fee of the delinquent taxes, penalties and interest collected. Our attorney fees are paid entirely by the delinquent property owners upon payment of the delinquent taxes as an additional penalty pursuant to the Texas Tax Code. ***Therefore, all the services provided by MVBA are at no cost.***

## MVBA STAFF WORKING FOR MILAM COUNTY

Harvey Allen supervises collection efforts and confers with the County staff. Lee Gordon represents the County in Bankruptcy matters and on selected collection cases. MVBA's Round Rock office is available to the County by a toll-free phone number.

MVBA attorney Craig Morgan represents the County in the District Court of Milam County in collection cases and conducts tax sales on real property, and provides support and assistance to the MVBA legal assistants.

MVBA has two legal assistants, Jane Moore and Virginia Shuffield, who prepare delinquent tax accounts for research, initiate and monitor payout agreements, coordinate the Firm's activities with the District Clerk and District Court, and respond to inquiries from property owners.