



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 12/17/2019

To: The Board of Supervisors of Sonoma County
Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector
Staff Name and Phone Number: Brooke Koop 565-3232
Vote Requirement: Majority
Supervisorial District(s): First

Title:

Granting of Transient Occupancy Tax and Business Improvement Area Appeal to the Board of Supervisors for the October -December 2018 Reporting Period (Fairmont Sonoma Mission Inn and Spa)

Recommended Action:

Approve a resolution granting the appeal filed by Fairmont Sonoma Mission Inn and Spa seeking a waiver of Transient Occupancy Tax and Business Improvement Area Assessments for the October-December 2018 reporting period, and authorizing and directing the Tax Collector to return penalties and interest paid by Fairmont Sonoma Mission Inn and Spa. (First District)

Executive Summary:

Pursuant to Section 12-21-2 of the County Transient Occupancies Tax (TOT) Ordinance 5823 and Section 33-10 of the County Business Improvement Area (BIA) Ordinance 5525, Fairmont Sonoma Mission Inn & Spa ("Operator") appealed the Tax Collector's determination against waiver of TOT and BIA penalties and interest for the reporting period covering October - December 2018. The TOT penalties and interest total \$73,781.42. The BIA penalties and interest total \$12,296.90. Operator requested relief on the basis that their office experienced understaffing and went through several transitions, and that this is their first time in delinquency status. The Operator previously appealed the penalties and interest to the Tax Collector, but neither Ordinance grants the Tax Collector the authority to grant such a waiver under these circumstances.

On November 18, 2019 the Board conducted the hearing, voted to grant the waiver of penalties and interest, and instructed staff to prepare and return with written findings to support the Board's decision.

Discussion:

The Operator requested a waiver of \$73,781.42 in TOT penalties and interest and \$12,296.90 in BIA penalties and interest for the reporting period covering October - December 2018.

On February 26, 2019, the Tax Collector received the TOT and BIA returns and payments for the reporting period, which was 26 days after the January 31, 2019 due date. Operator did submit payment of penalties and interest that was then due along with the base TOT and BIA.

Agenda Date: 12/17/2019

Operator claimed the 26-day delinquency was due to understaffing and several staff transitions. Operator further noted that this was their first time in delinquency status and they have an established history of timely filing and payment.

On April 25, 2019, the Tax Collector held an Appeal Hearing in accordance with Section 12-21-1 of the TOT Ordinance and Section 33-9 of the BIA Ordinance. When considering the evidence that Operator presented, the Tax Collector concluded that he lacks the authority under both ordinances to waive penalty and interest under these circumstances and County Counsel concurs. The Tax Collector only has the authority to waive penalties and interest if the tax is determined to be incorrect.

Operator timely appealed the Tax Collector's decision to the Board in accordance with Section 12-21-2 of the TOT Ordinance and Section 33-10 of the BIA Ordinance. The Ordinances require that the Board hold a public hearing to weigh evidence presented by the Operator and the recommendation of the Tax Collector.

On November 18, 2019 the Board conducted the appeal hearing, voted to grant the waiver of TOT and BIA penalties and interest, and instructed staff to prepare and return with written findings to support the Board's decision. □

Prior Board Actions:

November 18, 2019: 2019 Transient Occupancy Tax Appeal to the Board of Supervisors

FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Staffing Impacts:

Agenda Date: 12/17/2019

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

Resolution granting the TOT and BIA appeal filed by Fairmont Sonoma Mission Inn and Spa

Related Items “On File” with the Clerk of the Board: