



County of Sonoma
State of California

Date: December 17, 2019

Item Number: _____
Resolution Number: _____

4/5 Vote Required

Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Denying An Appeal Filed By Thacksine Rattanasengchanh (Operator) Seeking A Waiver Of Cannabis Business Tax, Penalties, And Interest For The July 2017—June 2018 Reporting Period And Upholding The Decision Of The Tax Collector; Making Findings Of Fact In Support Of Said Determination; And Authorizing And Directing The Tax Collector To File A Lien Against Operator And The Property.

Whereas, Thacksine Rattanasengchanh (hereafter “Operator”) submitted a Cannabis Land Use Penalty Relief Application on September 22, 2017, seeking relief for an existing operation of 7,000-8,000 square feet of outdoor cannabis cultivation located on property at 28001 King Ridge Road in Cazadero, California (“Property”); however, a Cannabis Permit Application was never submitted; and

Whereas, the Property is owned by Elsie Luccarelli (“Owner”); and

Whereas, pursuant Chapter 35 of the Sonoma County Code, Operator’s 2017-18 annual tax liability for an outdoor operation consisting of 7,000-8,000 square feet would be between \$14,000 and \$16,000 and scheduled to be paid in three installments on January 2018, April 2018, and July 2018, respectively; and

Whereas, Sonoma County Code section 35-5 imposes a cannabis business tax at the rates approved by the Board of Supervisors (“Board”), and businesses under the Penalty Relief Program were taxed under the same process as if already permitted; and

Whereas, the tax is determined by the size of the operation and its corresponding rate; and

Whereas, the Board adopted the Temporary Code Enforcement Penalty Relief Program on May 23, 2017, to bring existing operators into the regulated market; and

Whereas, the Penalty Relief Program created requirements that, if satisfied,

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would allow certain cannabis businesses to continue to operate without being subject to land use fines while they complete the work necessary to either become permitted or cease operations; and

Whereas, the Penalty Relief Program was modified and extended by the Board on September 17, 2017; and

Whereas, in order to qualify for the Penalty Relief Program, operators must: (1) complete the Cannabis Land Use Penalty Relief Application by October 31, 2017, (2) fall into one of the categories identified in the program, (3) operate in compliance with the operating requirements specified in the program, and (4) submit complete applications for permits by June 1, 2018, if applicable; and

Whereas, Operator submitted a Cannabis Land Use Penalty Relief Application on September 22, 2017, for his existing outdoor cannabis cultivation but never submitted a Cannabis Permit Application; and

Whereas, the 2017-18 annual tax liability for an outdoor operation consisting of 7,000-8,000 square feet at a set rate of \$2.00 per square feet of cultivated area; and

Whereas, Operator never remitted his first installment of the Cannabis Tax, and the Tax Collector notified Operator on or about August 16, 2018; and

Whereas, Operator timely filed an appeal to the Tax Collector in accordance with Section 35-26 of the Cannabis Tax Ordinance, seeking a waiver of the Cannabis tax, penalties, and interest for the reporting period covering July 2017 - June 2018; and

Whereas, on March 28, 2019, the Tax Collector held a hearing on Operator's appeal in accordance with the provisions set forth in Sonoma County Code section 35-27; and

Whereas, at the March 28, 2019 hearing, Operator claimed the permitting and legalization process has been vague and unclear, which resulted in Operator removing all cultivation from the property while under the penalty relief program; however, Operator failed to: (i) notify the County of the removal of all cultivation, (ii) submit verification of said removal by County inspection staff, and (iii) request a tax liability adjustment during the reporting period; and

Whereas, after considering the evidence presented by Operator, the Tax Collector determined the actual size of Operator's cultivation area to be 3,342 square feet and reduced Operator's tax liability for 2017-2018 to \$7,408.96 (which consists of \$5,013.00 in taxes, \$2,092.93 in penalties, and \$303.04 in interest); and

Whereas, as of November 1, 2019, the total tax liability is still outstanding; and

Whereas, Operator timely appealed the Tax Collector’s decision to the Board of Supervisors (“Board”) pursuant to Sonoma County Code section 35-28; and

Whereas, the Board held a duly noticed public hearing to consider Operator’s appeal on November 18, 2019; and

Whereas, no evidence contradicting the Tax Collector’s decision was presented to the Board—Operator neither appeared at the meeting to present oral testimony nor submitted written evidence in support of his appeal; and

Whereas, following the public hearing, the Board—having considered the record of the proceedings before it, the written material submitted for the public hearing, the oral testimony of the Tax Collector, and the oral testimony provided by members of the public, and having deliberated on the matter—by a vote of 5-0, voted to deny Operator’s appeal and uphold the decision of the Tax Collector, subject to the adoption of written findings of the Board in support of its determination.

Now, Therefore, Be It Resolved that the Board of Supervisors hereby finds, determines, and declares that the foregoing recitals are true and correct and are hereby incorporated into and form a material part of this Resolution; and

Be It Further Resolved that the Board finds, based on the foregoing facts presented in the record of proceedings before the Board, Operator has failed to present any evidence in support of his appeal.

Be It Further Resolved that the Board hereby denies the appeal and upholds the determination of the Tax Collector issued on March 28, 2019.

Be It Further Resolved that the Tax Collector is hereby authorized and directed to take all necessary action to issue an unsecured lien against Operator and record a secured lien against the Property.

Supervisors:

Gorin:	Zane:	Gore:	Hopkins:	Rabbitt:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.