



Legislation Details (With Text)

File #: 2019-1566
Type: Regular Calendar Item **Status:** Agenda Ready
File created: 10/9/2019 **In control:** Auditor-Controller-Treasurer-Tax Collector
On agenda: 11/18/2019 **Final action:**
Title: 8:30 A.M. - 2019 Transient Occupancy Tax Appeal to the Board of Supervisors
Sponsors: Auditor-Controller-Treasurer-Tax Collector
Indexes:
Attachments: 1. Summary Report -- 2019-11-18 Transient Occupancy Tax Appeal

Date	Ver.	Action By	Action	Result
11/18/2019	1	Board of Supervisors	Approved	Pass

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:
8:30 A.M. - 2019 Transient Occupancy Tax Appeal to the Board of Supervisors

Recommended Action:

Conduct a hearing to consider waiving penalties and interest on Transient Occupancy Tax and Business Improvement Area assessments for Fairmont Sonoma Mission Inn & Spa for the reporting period covering October-December 2018, and provide direction to staff to prepare and return with written findings to support the Board's determination. (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") has 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 is requesting 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.

Discussion:

Background

The Operator requests 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. The Tax Collector received the TOT and BIA

returns and payments for the reporting period on February 26th, 2019 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.

Operator claims the 26-day delinquency was due to understaffing and several staff transitions. Operator further notes that this is their first time in delinquency status; 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.

Staff Recommendation

Staff recommends that the Board:

- Conduct the public hearing to appeal the Tax Collector’s decision to deny the waiver of TOT and BIA penalties and interest for Fairmont Sonoma Mission Inn & Spa for the reporting period covering October-December 2018
- Take a straw vote on the proposed petition and provide direction to staff to prepare and return with written findings in support of the Board’s determination.

The Board has the option to:

1. Uphold the Tax Collector’s decision and deny the appeal, or
2. Approve the appeal and waive all or a portion TOT and BIA penalties and interest

Prior Board Actions:

None.

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

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

Related Items "On File" with the Clerk of the Board: