



## Legislation Details (With Text)

**File #:** 2019-1771  
**Type:** Consent Calendar Item **Status:** Agenda Ready  
**File created:** 11/26/2019 **In control:** Auditor-Controller-Treasurer-Tax Collector  
**On agenda:** 12/17/2019 **Final action:**  
**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)  
**Sponsors:** Auditor-Controller-Treasurer-Tax Collector  
**Indexes:**  
**Attachments:** 1. Agenda Summary, 2. Att 1 -- Resolution Granting Fairmont Sonoma Mission Inn Appeal

Date	Ver.	Action By	Action	Result
12/17/2019	1	Board of Supervisors	Approved as recommended	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  
**Supervisory 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.

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**

<b>Expenditures</b>	<b>FY 19-20 Adopted</b>	<b>FY20-21 Projected</b>	<b>FY 21-22 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			

Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**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:**