



Legislation Text

File #: 2019-1772, **Version:** 1

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): Fifth

Title:

Denial of Cannabis Tax Appeal to the Board of Supervisors for July 2017 - June 2018 Reporting Period (Rattanasengchanh)

Recommended Action:

Approve a resolution denying the appeal filed by Thacksine Rattanasengchanh seeking a waiver of Cannabis business tax, penalties and interest for the July 2017-June 2018 reporting period, and authorizing and directing the Tax Collector to file a lien against Thacksine Rattanasengchanh and the property. (Fifth District)

Executive Summary:

Pursuant to Section 35-28 of the County Cannabis Tax Ordinance, Thacksine Rattanasengchanh ("Operator") has appealed the Tax Collector's determination against waiver of Cannabis tax, penalties, and interest for the reporting period covering July 2017 - June 2018. The Cannabis tax, penalties, and interest total \$7,408.96. Operator requested relief on the basis that Operator did not cultivate cannabis for said period. Operator previously appealed the tax, penalties, and interest to the Tax Collector, but the Ordinance does not provide the Tax Collector the authority to grant such a waiver under these circumstances. On November 18, 2019, the Board conducted the appeal hearing, voted to deny the appeal, and instructed staff to prepare and return with written findings to support the Board's determination.

Discussion:

Operator submitted a Cannabis Land Use Penalty Relief Application on September 22, 2017, stating an existing operation of 7,000-8,000 sq. ft. of outdoor cannabis cultivation; however, a Cannabis Permit Application was never submitted. The FY 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 foot is between \$14,000 and \$16,000 scheduled to be paid in 3 installments: January 2018, April 2018 and July 2018.

Tax Collector notified Operator of the Cannabis tax delinquency and in accordance with Section 35-26 of the Cannabis Tax Ordinance, the Operator requested an Appeal Hearing to waive the Cannabis tax, penalties, and interest for the reporting period covering July 2017 - June 2018.

On March 28, 2019, the Tax Collector held an Appeal Hearing in which the 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. The Operator did not notify the County of the removal of all cultivation, removal was not verified by County inspection staff in accordance with canopy verification procedures, and the Operator did not request a tax liability adjustment during the reporting period.

After considering the evidence presented by the Operator and after reviewing google imagery from June 2017, the Tax Collector determined the operation size to be 3,342 square feet. Per the Cannabis Land Use Table, an outdoor operation consisting of less than 5,000 square feet is taxed at a rate of \$1.50 per square foot. Therefore, the tax liability determined by the Tax Collector for FY 2017-2018 is \$7,408.96; which consists of \$5,013.00 in taxes, \$2,092.93 in penalties, and \$303.04 in interest. As of November 1, 2019, the total tax liability is still outstanding.

The Operator timely appealed the Tax Collector's decision to the Board in accordance with Section 35-28 of the Cannabis Tax Ordinance. The Ordinance requires that the Board hold a public hearing to weigh evidence presented by the Operator and the recommendation of the Tax Collector.

The Tax Collector attempted to notify the Operator of the Board of Supervisors hearing date in advance of the 10-day noticing requirement. A certified letter was mailed on November 5, 2019 and subsequently returned undelivered, and emails were sent on November 4th and 5th. The Operator responded by email on November 15, 2019 and inform staff that he would not attend the hearing.

On November 18, 2019 the Sonoma County Board of Supervisors conducted the appeal hearing, voted to deny the appeal by the Operator, and instructed staff to prepare and return with written findings to support the Board's determination. The Operator was not present at the hearing.

Prior Board Actions:

November 18, 2019: Cannabis Tax Appeal to the Board of Supervisors for July 2017 - June 2018 Reporting Period

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:

Attachment - Resolution Denying The Cannabis Tax Appeal Filed By Thacksine Rattanasengchanh

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