



Legislation Text

File #: 2022-0297, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): County Counsel, Auditor-Controller Treasurer-Tax Collector

Staff Name and Phone Number: Kristin Horrell, Deputy County Counsel, 707-565-2421

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Hearing Officer Proposed Decision for Cannabis Tax Assessment Appeal

Recommended Action:

Adopt Hearing Officer Proposed Decision In the Matter of Appeal of FY 17-18 CBT Appeal, Delroy Anderon, for Cannabis Operations at 1645 And 1681 S. Wright Rd, Santa Rosa.

Executive Summary:

The County's Cannabis Business Tax Ordinance, codified in Chapter 35 of the Sonoma County Code, sets forth an appeal procedure for any taxpayer who has received a notice of assessment from the County's Treasurer-Tax Collector for failure to report taxes and/or failure to pay the taxes due. Following these procedures, the Board of Supervisors appointed the Office of Administrative Hearings to hear the cannabis tax appeal for Delroy Anderson. The proposed decision of the Hearing Officer is coming to your Board, as required by the Ordinance, for a final decision on the tax assessment. Staff recommends your Board adopt the hearing officer proposed decision to uphold the taxes, penalties and interest assessed against Delroy Anderson as properly calculated and immediately due and payable.

Discussion:

The Cannabis Business Tax Ordinance requires that, to appeal the assessment of cannabis business taxes, the taxpayer must apply in writing to the Treasurer-Tax Collector for a hearing on the assessment. Following that hearing, any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties and fees, if any, due may appeal to the Board of Supervisors (the Board). The Board may appoint a referee to take testimony at the subsequent tax appeal hearing, who shall report their findings and recommendations to the Board, who will then make a decision on what tax, fees, interest or penalties, if any, are due to the County. The Board can refer any hearing duties to the County hearing officer, whose duties may be performed by the Office of Administrative Hearings (OAH). Accordingly, the Board appointed the OAH to hear this tax assessment appeal for Cannabis Operator Delroy Anderson (Appellant) for cannabis operations that took place at 1645 and 1861 S. Wright Rd, Santa Rosa (the Properties). The Property Owner who owned the properties where Appellant's cannabis operations took place also appealed the assessment of taxes due, but reached a settlement with the County prior to the OAH hearing, and was dismissed from this appeal.

On March 17, 2022, the OAH heard the Tax Assessment Appeal against Appellant. Appellant did not show at the hearing, despite proper notice, and County staff presented their case against Appellant, as allowed by the Hearing Officer. The Hearing Officer has submitted a written recommendation in the form of a proposed

decision, as required by the Cannabis Business Tax Ordinance and the County's Rules and Procedures for Administrative Hearings, which governed the hearing. The Board shall determine from the proposed decision the amount of tax, interest, penalties and fees, if any, are due to the County from the appellant.

It is staff's recommendation that your Board accept the proposed decision of the Hearing Officer to uphold the amount of taxes, penalties and interest due as assessed by the Treasurer-Tax Collector, less the amount paid in settlement by the Property Owner for a total of \$21,248,332.76 due by Appellant. The decision made by your Board, based on the recommendation of the Hearing Officer, is final and conclusive. A copy of this decision shall be served upon the appellant, and the amount shall be immediately due and payable upon the service of the said notice.

Strategic Plan:

N/A

Prior Board Actions:

N/A

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 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:

N/A

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

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Proposed Decision of Hearing Officer.

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

N/A