



Agenda Item No. _____

File Code No. 270.06

CITY OF SANTA BARBARA

CITY COUNCIL AGENDA REPORT

AGENDA DATE: May 17, 2011

TO: Mayor and Councilmembers

FROM: City Administrator's Office
City Attorney's Office

SUBJECT: Appeal Of Penalty For Late Tax Filing By Santa Barbara Inn

RECOMMENDATION:

That the City Council appoint the City Administrator as the appropriate City officer to hear the appeal of the imposition of a penalty for a late transient occupancy tax payment upon the Santa Barbara Inn pursuant to the authority of Santa Barbara Municipal Code Section 1.30.050(B).

DISCUSSION:

The Santa Barbara Inn, located at 901 East Cabrillo Boulevard, has requested an administrative appeal for the imposition of a penalty for their late payment of transient occupancy tax received on April 13, 2011. Under SBMC Section 4.08.140, a lodging establishment operator may appeal the decision of the Finance Director with respect to the amount of penalties imposed. The original request for a waiver of penalty from Santa Barbara Inn was denied by the Finance Department.

The City of Santa Barbara levies a 12 percent occupancy tax on lodging customers under Santa Barbara Municipal Code (SBMC) sections 4.08 and 4.09. The tax is collected by lodging operators from hotel patrons on behalf of the City and then reported and remitted to the City on a monthly basis. SBMC Section 4.08.070 states that each lodging operator shall report and remit all transient occupancy tax collected on or before the tenth (10th) day after the close of each calendar month. For any month when the 10th calendar day falls on a Saturday, Sunday or City holiday, the next business day is considered the due date.

The City establishes the "delivery date" by accepting an official postmark date from the U.S. Postal Service as proof of the compliance with the SBMC deadline. When a lodging operator imprints its own metered postage on an envelope, the operator accepts the responsibility for the mailing date because metered imprints only indicate the date that an operator stamped the postage on the envelope, not the date it was actually mailed with the

U.S. Postal Service. For this reason, the monthly City's Transient Occupancy Tax Return states on its face that only official USPS postmarks are acceptable as proof of timely mailing.

The Santa Barbara Inn used a postage meter imprint, dated April 9, 2011, to stamp its remittance envelope for the March 2011 transient occupancy tax payment. Since April 10, 2011 fell on a Sunday, the deadline for U.S. Postal Service postmark or actual receipt by the City was Monday, April 11, 2011. The payment from Santa Barbara Inn was received by the Finance Department on April 13, 2011, two days after the deadline, with no additional postmark from the U.S. Postal Service indicating actual date of mailing.

The Finance department issues one-time waivers for late penalties because unforeseen circumstances and emergencies can occur that make it impossible for an operator to submit their payment in a timely manner. Santa Barbara Inn received a waiver of penalty in 2006 and was informed at the time that the waiver could be issued one time only. Based on this, the Finance Department denied the request for a second waiver of penalty.

Staff recommends that Council refer this appeal to the City Administrator as the City appeal hearing officer to hear and decide the appeal from Santa Barbara Inn as such a referral is authorized by SBMC Section 1.30.050.

PREPARED BY: Jill Taura, Treasury Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office