



CITY OF SANTA BARBARA

CITY COUNCIL AGENDA REPORT

AGENDA DATE: November 15, 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 Luxury Rentals

RECOMMENDATION:

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

DISCUSSION:

Santa Barbara Luxury Rentals, a local vacation rental operator, has submitted an administrative appeal of the imposition of a penalty for a late transient occupancy tax payment received on July 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 the penalties imposed. The original request for a waiver of penalty from Santa Barbara Luxury Rentals was denied by the Finance Department based on the facts of the case.

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 on behalf of the City and then reported and remitted to the City monthly. 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. There is no tax exclusion in the SBMC for stays at vacation rentals.

The City accepts the responsibility for the mailing time by accepting dated postmarks from the U.S. Postal Service as proof of the meeting the SBMC deadline. Since July 10, 2011 fell on a Sunday, the deadline for U.S. Postal Service postmark, or actual receipt by the City, was Monday, July 11, 2011. The payment from Santa Barbara Luxury Rentals was received by the Finance department on Wednesday, July 13, 2011 with a U.S. Postal Service postmark dated July 12, 2011, one day after the legal deadline.

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. In the case of Santa Barbara Luxury Rentals, penalties and interest for late taxes were waived on a one-time basis in July 2009 when the business was first brought into transient occupancy tax code compliance. At that time, Santa Barbara Luxury Rentals filed its first TOT return and submitted back tax for a number of prior periods, although it had been a licensed business for a number of years. Based on this, the Finance department denied the request for a second waiver of penalty.

Staff recommends that Council appoint the City Administrator as the City officer to hear and decide the appeal from Santa Barbara Luxury Rentals.

PREPARED BY: Jill Taura, Treasury Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office