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OFFICE OF THE CITY CLERK  
OAKLAND

CITY OF OAKLAND 2012 NOV 20 AM 9:43

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Donna Hom

SUBJECT: Delinquent Transient Occupancy Taxes

DATE: October 29, 2012

City Administrator  
Approval

Date

11/19/12

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Staff recommends that the City Council adopt the resolution accepting and confirming reports of the City Administrator on the costs incurred by the City of Oakland for delinquent transient occupancy taxes and confirming the recordation of liens with administrative and assessment charges as necessary – pursuant to Chapter 4.24 of the Oakland Municipal Code, and directing the notice of lien and assessment charges be turned over to the County Tax Collector for collection.

## OUTCOME

The lien will be recorded against three (3) properties. The parcels' delinquency represents \$38,106.56 for past due transient occupancy tax. Failure to place the lien to recover the delinquent taxes will result in a loss of \$38,256.56 in estimated revenues to the General Purpose Fund. The \$150 in additional revenue is derived from the \$50 administrative fee per lien for the three (3) properties.

## BACKGROUND/LEGISLATIVE HISTORY

Pursuant to Chapter 4.24 of the Oakland Municipal Code, hotel owners/operators were sent notices during a review and assessment process to address delinquent transient occupancy taxes determined to be owed to the City. An administrative hearing for delinquent transient occupancy taxes was held on October 23, 2012 to hear protests and to resolve any inconsistencies or inequities raised by hotel owners/operators regarding the non-payment of transient occupancy taxes. The owners/operators were given the opportunity to appeal their cases in this administrative process.

Following the administrative hearing, the Tax Administrator filed with the City Administrator a written notice of those persons on whom the City will file liens for unpaid taxes, penalties, interest and other charges. If these amounts remain unpaid or unresolved after the public hearing

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by the City Council, the City Council shall authorize by resolution the recordation of liens on the subject properties for costs incurred for delinquent transient occupancy taxes and added administrative and assessment charges. The delinquent charges and assessments shall constitute a special assessment against said property, and shall be collected at such time as is established by the County Assessor for inclusion in the next property tax assessment.

The public hearing is scheduled for December 4, 2012. A resolution is prepared confirming the placement of liens on three (3) properties and authorizing the subsequent assessment for all fees and charges.

### **ANALYSIS**

Hotel owners/operators owe delinquent transient occupancy taxes and administrative fees to the City for accounts not resolved at the October 23, 2012 administrative hearing as shown in the attached list. Hotel owners/operators collect the transient occupancy tax from transients on behalf of the City, and it is their fiduciary responsibility to remit said taxes to the Tax Administrator by the due date as determined by their reported annual business tax gross receipts. If the City fails to place liens to recover the delinquent taxes, the General Purpose Fund may potentially lose estimated revenues totaling \$38,106.56 and administrative fees totaling \$150, creating a grand total of \$38,256.56 for this period.

### **PUBLIC OUTREACH/INTEREST**

Administrative hearings for delinquent transient occupancy taxes were held on October 23, 2012 to hear protests and resolve any inconsistencies or inequities raised by hotel owners/operators regarding the non-payment of transient occupancy taxes.

### **COORDINATION**

In coordination with the Office of the City Attorney, the agenda report, resolutions, and supporting items attached to this report have been reviewed and/or approved for form and legality.

### **COST SUMMARY/IMPLICATIONS**

If the City fails to place liens to recover the delinquent taxes, the General Purpose Fund (1010) may potentially lose a total of \$38,256.56 for this period.

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**SUSTAINABLE OPPORTUNITIES**

**Economic:** Collections of delinquent transient occupancy taxes have major economic implications for the City's sustainability. The revenue source is relied upon to fund essential City services.

**Environmental:** There are no environmental opportunities resulting from the recommended changes to the Ordinance.

**Social Equity:** Collections of delinquent transient occupancy taxes have significant social equity implications for the City's sustainability. The revenue source is relied upon to fund essential City services to all citizens and taxpayers.

**CEQA**

Not applicable. This report is not a project under CEQA.

For questions regarding this report, please contact David McPherson, Revenue and Tax Administrator at (510) 238-6650.

Respectfully submitted,



\_\_\_\_\_  
Donna Horn  
Interim Budget Director, Budget Office

Prepared by:  
David McPherson, Revenue and Tax Administrator  
Revenue Division

***Attachment (I) – Public Hearing Lien list for Transient Occupancy Tax (TOT)***

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**PUBLIC HEARING LIEN LIST FOR TRANSIENTY OCCUPANCY TAX (TOT)**  
**ADMINISTRATIVE HEARING: OCTOBER 23, 2012**  
**COUNCIL HEARING: DECEMBER 4, 2012**

<u>Acct #</u>	<u>Owner Name</u>	<u>Hotel Name</u>	<u>Property Address</u>	<u>Parcel #</u>	<u>\$ Amt Tax Liab</u>	<u>Admin Fee</u>	<u>\$ Amt Lien</u>	<u>Delinquency Period(s)</u>
1753282	HEMANT INVESTMENTS LLC	QUALITY INN	8471 ENTERPRISE WY	042 432300305	\$ 32,860.49	\$ 50.00	\$ 32,910.49	July 2012
3128547	NEWMAN BOBBY & PATEL ASHOK ETAL	HIGHLANDER MOTEL	3255 MACARTHUR BLVD	028 094502901	\$ 4,106.38	\$ 50.00	\$ 4,156.38	July 2012
2525135	REED BRENDA H	ACACIA HOUSE	6276 ACACIA AVE	048A710701700	\$ 1,139.69	\$ 50.00	\$ 1,189.69	April 2012 through June 2012
<b>Total Due</b>					<b>\$ 38,106.56</b>	<b>\$ 150.00</b>	<b>\$ 38,256.56</b>	

*[Signature]*  
City Attorney

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# OAKLAND CITY COUNCIL

2012 NOV 20 AM 9:24 RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION ACCEPTING AND CONFIRMING REPORTS OF THE CITY ADMINISTRATOR ON THE COSTS INCURRED BY THE CITY OF OAKLAND FOR DELINQUENT TRANSIENT OCCUPANCY TAXES AND CONFIRMING THE RECORDATION OF LIENS WITH ADMINISTRATIVE AND ASSESSMENT CHARGES AS NECESSARY – PURSUANT TO CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE, AND DIRECTING THE NOTICE OF LIEN AND ASSESSMENT CHARGES BE TURNED OVER TO THE COUNTY TAX COLLECTOR FOR COLLECTION**

**WHEREAS**, pursuant to Chapter 4.24 of the Oakland Municipal Code, the City Administrator filed with the City Clerk on the 4th day of December 2012, the reports concerning the costs incurred by the City of Oakland for delinquent transient occupancy taxes and recordation of liens with added administrative and assessment charges on hereinafter described real property; and

**WHEREAS**, December 4, 2012, 6:30 p.m., was fixed as the day and hour for the Council to hear any protests by property owners or other interested persons regarding delinquent transient occupancy taxes, and to hear and accept the reports of the City Administrator; and

**WHEREAS**, no protest having been made at said hearing; now, therefore be it

**RESOLVED:** That the reports which the City Administrator filed with the City Clerk on the 4<sup>th</sup> day of December 2012, concerning delinquent transient occupancy taxes, the recordation of liens with administrative and assessment charges for the real property described in the reports of the City Administrator attached hereto, be and are hereby accepted and confirmed, and assessments are hereby authorized to be levied upon the properties described in the attached reports in the amount set opposite each description for costs incurred for delinquent transient occupancy taxes, added administrative and assessment charges; and be it

**FURTHER RESOLVED:** That if any assessment levied on a property is not paid before the 10th day of August 2013, the City Administrator shall present an itemized report to the Auditor-Controller of the County of Alameda, State of California, to be placed on the 2013-2014 County Tax Roll.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSENTENTION -

ATTEST: \_\_\_\_\_  
La Tonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

# OAKLAND CITY COUNCIL

  
City Attorney

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RESOLUTION NO. \_\_\_\_\_ C.M.S.

2012 NOV 20 AM 9:44

Introduced by Councilmember \_\_\_\_\_

## RESOLUTION CONTINUING HEARING OF THE REPORTS OF THE CITY ADMINISTRATOR ON DELINQUENT TRANSIENT OCCUPANCY TAXES AND THE RECORDATION OF LIENS WITH ADMINISTRATIVE AND ASSESSMENT CHARGES AS NECESSARY---PURSUANT TO CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE

**RESOLVED:** That the hearing of the reports of the City Administrator on delinquent transient occupancy taxes and recordation of liens with added administrative and assessment charges that was duly noticed and held on the 4th day of December 2012, 6:30 p.m., is hereby continued for further hearing on the day of \_\_\_\_\_ in City Hall, One Frank H. Ogawa Plaza, Council Chambers, Oakland, California.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*Karen Helms*  
City Attorney

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OAKLAND

# OAKLAND CITY COUNCIL

2012 NOV 20 AM 9:44 RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION OVERRULING PROTESTS AND OBJECTIONS AND ACCEPTING AND CONFIRMING REPORTS OF THE CITY ADMINISTRATOR ON THE COSTS INCURRED BY THE CITY OF OAKLAND FOR DELINQUENT TRANSIENT OCCUPANCY TAXES AND AUTHORIZING THE RECORDATION OF LIENS WITH ADMINISTRATIVE AND ASSESSMENT CHARGES AS NECESSARY – PURSUANT TO CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE, AND DIRECTING THE NOTICE OF LIEN AND ASSESSMENT CHARGES BE TURNED OVER TO THE COUNTY TAX COLLECTOR FOR COLLECTION**

**WHEREAS**, pursuant to Chapter 4.24 of the Oakland Municipal Code, the City Administrator filed with the City Clerk on the 4th day of December 2012, the reports concerning the costs incurred for delinquent transient occupancy taxes and recordation of liens with added administrative and assessment charges on hereinafter described real property; and

**WHEREAS**, December 4, 2012, 6:30 p.m., was fixed as the day and hour for the Council to hear any protests by property owners or other interested persons regarding delinquent transient occupancy taxes, and to hear and accept the reports of the City Administrator; now, therefore be it

**RESOLVED**: That the protests are hereby overruled; and be it

**FURTHER RESOLVED**: That the reports the City Administrator filed with the City Clerk on the 4<sup>th</sup> day of December 2012, concerning delinquent transient occupancy taxes and the recordation of liens with administrative and assessment charges for the real property described in the reports of the City Administrator attached hereto, be and are hereby accepted and confirmed, and the assessments are hereby authorized to be levied upon the properties described in the attached reports, in the amounts set opposite each description for costs incurred for delinquent transient occupancy taxes, added administrative and assessment charges; and be it



**FURTHER RESOLVED:** That if any assessment levied on a property is not paid before the 10th day of August 2013, the City Administrator shall present an itemized report to the Auditor-Controller of the County of Alameda, State of California, to be placed on the 2013-2014 County Tax Roll.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California