

CITY OF OAKLAND
Agenda Report

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OAKLAND
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TO: Office of the City Manager
ATTN: Deborah Edgerly, City Manager
FROM: Finance and Management Agency
DATE: February 24, 2004

RE: REPORT ON THE BUSINESS TAX BOARD OF REVIEW MEETINGS
FOR THE SECOND QUARTER OF FISCAL YEAR 2003/2004

Attached is the second quarter report from the Business Tax Board of Review. A representative from the Board will be available to answer questions.

Respectfully Submitted,



WILLIAM E. NOLAND, Interim Agency
Director
Finance and Management Agency

Prepared by: Debra Taylor Johnson
Revenue Manager

Attachments

APPROVED FOR FORWARDING TO THE
FINANCE AND MANAGEMENT COMMITTEE


OFFICE OF THE CITY MANAGER

Item: 7
Finance and Management Committee
February 24, 2004

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Re: REPORT ON THE BUSINESS TAX BOARD OF REVIEW MEETINGS FOR
THE SECOND QUARTER OF FISCAL YEAR 2003/2004.

This is an informational report on the Business Tax Board of Review hearings held during the second quarter of Fiscal Year 2003/2004. Per the request of the Committee, a brief narrative on the decisions by the Board, as well as appeals made by taxpayers, are outlined.

Background:

Pursuant to Section 5.04.550 of the Oakland Municipal Code, the Business Tax Board of Review, consisting of the City Manager, the City Auditor, the City Attorney and two community members nominated by the Mayor and appointed by the Council, was established to assist Oakland business taxpayers who have matters that were not resolved by discussion with the Financial Services Agency staff members.

Discussion:

The Business Tax Board of Review has convened one (1) regular meeting in the second quarter of Fiscal Year 2003/2004. The meeting was held on December 11, 2003. The following is a summary of the decisions rendered by the Board:

MEETING DATE: DECEMBER 11, 2003:

There were a total of fifteen (15) cases originally scheduled to be heard at this meeting involving various disputes. Four (4) cases were postponed to be heard at the next Board meeting. The eleven (11) cases heard were:

- 1) A request for the waiver of the penalty and interest on the delinquent business tax account. The appellant contended that he did not receive an instruction sheet with his renewal declaration and thus calculated the tax incorrectly, which resulted in penalty and interest assessments. *The Board voted to deny the appellant's request for a waiver of the penalty and interest.*
- 2) A request for a waiver of the penalty and interest on the delinquent rental business tax account. The appellant contended that she was unaware of the City's business tax requirements for rental properties. Staff notified her of these requirements in April 2003,

Item: 7
Finance and Management Committee
February 24, 2004

- at which time she paid the tax. *The Board voted to deny the appellant's request for a waiver of the penalty and interest.*
- 3) A request for a waiver of the penalty and interest on the delinquent business tax account. The appellant claimed that she misread the instructions for filing the tax and subsequently underpaid the tax, which resulted in penalty and interest assessments. *The Board voted to deny the appellant's request for a waiver of the penalty and interest.*
 - 4) A request for a waiver of the penalty and interest on the delinquent business tax account. The appellant stated that her company's administrator, who had always handled the taxes, passed away suddenly, which resulted in non-payment of the business tax for tax year 2003. *The Board, upon request by the Revenue Manager, voted to table this case, pending further review by the Revenue Manager.*
 - 5) A request for a waiver of the penalty and interest on the delinquent business tax account. The appellant claimed he never received any notification regarding the City's business tax requirements. However, he had applied and paid for the registration fee at the time his business activity began. In addition, records indicate that yearly renewal notices were generated and mailed to him. *The Board voted to deny the appellant's request for a waiver of the penalty and interest assessments.*
 - 6) A request for a waiver of the penalty and interest on the delinquent rental business tax account. The appellant claimed she was unaware of the City's business tax requirements for rental properties and failed to pay the tax timely. The appellant also requested that she be allowed to make monthly payments under the promissory note procedure which was initially granted (as the procedure for making payments via promissory notes was changed shortly thereafter). *The Board voted to deny the appellant's request for a waiver of the penalty and interest and to allow her to continue making payments under the previous procedure.*
 - 7) A request for exemption from the City's business tax. The appellant is in the business of selling items at an Alameda flea market but records received from the California State Board of Equalization indicated an Oakland address. The appellant stated that the address on the seller's permit is her home address, but she didn't conduct any business there. She claimed all business transactions take place at the flea market. *The Board voted to grant the appellant's request for an exemption from the business tax.*
 - 8) A request for a waiver of the penalty and interest on the delinquent rental business tax account. The appellant claimed that her company was unaware of the City's business tax requirements for rental properties. The appellant requested at the meeting if they could be allowed to pay their liability via promissory note without the penalty. *The Board voted to deny the appellant's request for a waiver of the penalty and interest and to work with staff to pay the outstanding balance in monthly installments.*

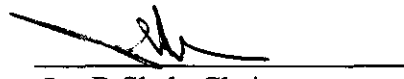
Item: 7

Finance and Management Committee
February 24, 2004

- 9) A request to be allowed the five-year exemption for newly renovated property. There had been a fire in this building in 1997 and the owners renovated the building. In 2001, they filed for the five-year exemption, but failed to provide necessary documentation to the Revenue Audit Section, which resulted in a denial of their claim. The appellants had paid the tax each year at the reduced rate and requested at the meeting that staff accept the original filings on the annual declarations to allow them the five-year exemption. Their accountant provided additional documentation at the meeting, which was not previously submitted. *The Board, upon request by the Revenue Manager, referred this case back to staff to review the documents presented to determine if they are eligible for the five-year exemption.*
- 10) A request for a refund on erroneous taxes paid. The appellant had owned several rental properties, which were sold at different times. She paid the taxes for the year after each property was sold but failed to request a refund within the time frame allowed by the Business Tax Ordinance. Subsequently staff denied her request. However, the statute of limitations was changed from twelve (12) to fifteen (15) months. *The Board voted to grant the appellant's request for a refund.*
- 11) A request for a waiver of the penalty and interest and reinstatement to the City's Business Tax Incentive Program (BTIP). The taxpayer had requested a 45-day extension through April 15, 2002, but her payment was postmarked April 16, 2002. The delinquency resulted in penalty and interest assessments and disqualification from the BTIP. The appellant claimed she had mailed her payment on time from the city of Manteca. However, staff discovered that all mail is forwarded from Manteca to Stockton for postmarking, which resulted in the late postmark date. *The Board voted to grant the appellant's request for a waiver of the penalty and interest and to be reinstated to the BTIP.*

The next Board of Review meeting has not yet been scheduled.

Respectfully Submitted,
Business Tax Board of Review


Jay R Shah, Chairperson

Item: 7
Finance and Management Committee
2/24/04