

CITY OF OAKLAND
Agenda Report

OFFICE OF THE CITY CLERK
OAKLAND
2005 SEP -7 PM 2:09

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance and Management Agency
DATE: September 20, 2005

**SUBJECT: PUBLIC HEARING ON ASSESSMENT OF LIENS FOR TRANSIENT
OCCUPANCY TAXES**

SUMMARY

In compliance with OMC 4.24.090, if any operator fails or refuses to collect Transient Occupancy Tax (TOT) and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the Tax Administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of tax due.

A notice was mailed to property owners, (10) ten days prior to the administrative hearing date, in accordance with OMC 4.24.140, informing them of the administrative hearing scheduled for August 24, 2005, in an attempt to satisfy inconsistencies or inequities in tax due prior to the public hearing, scheduled for City Council, September 20, 2005. The administrative and public hearings are held only after all other procedural means to resolve an unpaid Transient Occupancy Tax account have been exhausted.

FISCAL IMPACT

The delinquent TOT liens will be recorded against nine (9) parcels owned by nine (9) property owners in an attempt to secure the money due the City of Oakland. The total delinquent parcels represent a past due tax amount of \$453,693. If the City fails to impose liens against property owners it will result in a potential revenue loss of \$454,143 to the General Fund. This revenue was anticipated and adopted in the FY2005-07 Policy Budget.

BACKGROUND

When the property owners failed to respond to the initial notice, the Tax Administrator estimated the amount of taxes due, provided notice to each owner/operator and held administrative hearings in compliance with Oakland Municipal Code section 4.24.090. The operators were notified, in writing, of the final determination of the amount due and of their rights of appeal.

Item: _____
City Council
September 20, 2005

In accordance, with OMC 4.24.150, with the confirmation of the report by the City Council, the delinquent TOT charges which remain unpaid by the owner/operator of the business/business property shall constitute a special assessment against the business property and shall be collected at such time as is established by the County Assessor for inclusion in the next property tax assessment.

KEY ISSUES AND IMPACTS

None

POLICY DESCRIPTION

Pursuant to Title 4, Chapter 4.24 of the Oakland Municipal Code, staff submits quarterly recommendations to Council for the recordation of a lien for delinquent Transient Occupancy Taxes.

SUSTAINABLE OPPORTUNITIES

None

DISABILITY AND SENIOR CITIZEN ACCESS

None

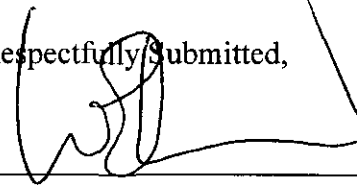
RECOMMENDATION AND RATIONALE:

Staff recommends that the City Council approve the resolution accepting and confirming the report from the City Administrator on delinquent transient occupancy taxes and confirming the recordation of liens, administrative charges, and assessment charges with the County Recorder's Office.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the placement of liens for the nine parcels/properties and to authorize the subsequent assessment for all taxes and charges should they remain unpaid at the time required for submission to the County Assessor. The owners of the nine parcels/properties failed to resolve the delinquencies during the administrative hearing.

Respectfully Submitted,



William E. Noland, Director
Finance and Management Agency

Prepared by:
Terry Adelman, Revenue Manager
Revenue Division

APPROVED FOR FORWARDING TO
THE CITY COUNCIL:



OFFICE OF THE CITY ADMINISTRATOR

Handwritten signature

FILED
OFFICE OF THE CITY CLERK
OAKLAND
OAKLAND CITY COUNCIL

2005 SEP -7 PM 2:10

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, ADMINISTRATIVE CHARGES AND ASSESSMENT CHARGES AS NECESSARY - PURSUANT TO TITLE 4, CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE, AND DIRECTING THE NOTICE OF LIEN AND ASSESSMENT CHARGES TO BE TURNED OVER TO THE COUNTY FOR COLLECTION.

WHEREAS, pursuant to Title 4, Chapter 4.24 of the Oakland Municipal Code, the City Administrator filed with the City Clerk her reports concerning the costs incurred for delinquent Transient Occupancy Taxes and recordation of liens with added administrative charges and assessment charge on thereafter described real property; and

WHEREAS, September 20, 2005, at the hour of 7:01 o'clock p.m. as the day and hour for the Council to hear and pass upon said reports, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the costs incurred for delinquent Transient Occupancy Taxes and any other interested persons; 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 concerning Transient Occupancy Taxes and the recordation of liens with administrative charges for the real property described therein, be and the same are hereby accepted and confirmed, and assessments are hereby authorized to be levied upon the properties described in said City Administrator reports in the amounts set opposite each description for costs incurred for delinquent Transient Occupancy Taxes, added administrative charges, and be it

FURTHER RESOLVED: That if said assessment therein levied is not paid before the 10th day of August 2006, 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 2006-2007 County Tax Roll.

In Council, Oakland, California, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

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

Robert Johnson

FILED
OFFICE OF THE CITY CLERK
OAKLAND CITY COUNCIL
OAKLAND

2005 SEP -7 PM 2:10
RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION OVERRULING PROTESTS AND ACCEPTING AND CONFIRMING REPORTS OF THE CITY ADMINISTRATOR ON THE DELINQUENT TRANSIENT OCCUPANCY TAXES AND CONFIRMING THE RECORDATION OF LIENS, ADMINISTRATIVE CHARGES AND ASSESSMENT CHARGES AS NECESSARY - PURSUANT TO TITLE 4, CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE, AND DIRECTING THE NOTICE OF LIEN AND ASSESSMENT CHARGES TO BE TURNED OVER TO THE COUNTY TAX COLLECTOR FOR COLLECTION.

WHEREAS, pursuant to Title 4, Chapter 4.24 of the Oakland Municipal Code, the City Administrator filed with the City Clerk her reports concerning the costs incurred for delinquent Transient Occupancy Taxes and recordation of liens with added administrative charges and assessment charges on thereafter described real property, and

WHEREAS, September 20, 2005, at the hour of 7:01 o'clock p.m., was fixed as the day and hour for the Council to hear and pass upon said reports, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the costs incurred for delinquent Transient Occupancy Taxes and any other interested persons; therefore be it

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

FURTHER RESOLVED: That the reports which the City Administrator filed with the City Clerk concerning delinquent Transient Occupancy Taxes and the recordation of liens with administrative charges for the real property described therein be and are hereby accepted and confirmed, and assessments are hereby authorized to be levied upon the properties described in said City Administrator reports in the amounts set opposite each description for costs incurred for delinquent Transient Occupancy Taxes, added administrative charges and assessment charges; and be it

FURTHER RESOLVED: That if said assessment therein levied is not paid before the 10th day of August 2006, 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 2006-2007 County Tax Roll.

In Council, Oakland, California, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND OAKLAND CITY COUNCIL

2005 SEP -7 PM 2: 10
RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION CONTINUING HEARING ON REPORTS OF THE CITY ADMINISTRATOR ON THE DELINQUENT TRANSIENT OCCUPANCY TAXES AND THE CONFIRMING OF THE RECORDATION OF LIENS, ADMINISTRATIVE CHARGES AND ASSESSMENT CHARGES AS NECESSARY - PURSUANT TO TITLE 4, CHAPTER 4.24 OF THE OAKLAND MUNICIPAL CODE.

RESOLVED: That the hearing on the reports of the City Administrator on the delinquent Transient Occupancy Taxes and recordation of the liens with added administrative charges was duly noticed and held on the 20th day of September, 2005, at the hour of 7:01 o'clock p.m., is hereby continued for further hearing on the day of _____ in the Chamber of the City Council.

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

In COUNCIL, OAKLAND, CALIFORNIA, _____, 20__

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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