

CITY OF OAKLAND
AGENDA REPORT

2011 NOV 21 PM 3: 28

TO: Office of the City Administrator
ATTN: Deanna J. Santana, City Administrator
FROM: Finance and Management Agency
DATE: December 6, 2011

RE: **Public Hearing on the Assessment of Liens for Delinquent Transient Occupancy Taxes**

SUMMARY

Pursuant to Chapter 4.24 of the Oakland Municipal Code, hotel operators receiving rents are required to pay Transient Occupancy Tax to the City. If the tax is paid by the transient to the hotel operator at the time the rent is paid, then the transient's debt to the City is extinguished.

An administrative hearing for delinquent Transient Occupancy Taxes was held on November 1, 2011, to hear protests and resolve any inconsistencies or inequities raised by hotel owners/operators regarding the non-payment of Transient Occupancy Taxes. The administrative and public hearings are held only after all other procedural means to resolve unpaid taxes have been exhausted. Following the administrative hearing, the City notified hotel owners/operators of its intent to record a lien against their property should they fail to pay delinquent taxes due the City.

A public hearing has been scheduled for December 6, 2011, and a resolution has been prepared confirming the placement of liens on five (5) properties and authorizing the subsequent assessment for all fees and charges, should the liens remain unpaid at the time of the City's submission to the County Assessor.

FISCAL IMPACT

Hotel owners/operators owe the City delinquent Transient Occupancy Taxes and administrative fees for the accounts not resolved at the November 1, 2011 administrative hearing as shown in the attached list. If the City fails to place a lien to recover the delinquent taxes, the General Purpose Fund may potentially lose \$44,801.99 in estimated revenues.

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City Council
December 6, 2011

BACKGROUND

Hotel owners/operators were sent notices during a review and assessment processes to address delinquent Transient Occupancy Taxes determined to be due the City. The owners/operators are then given the opportunity to appeal their cases via an administrative hearing process.

An administrative hearing for delinquent Transient Occupancy Taxes was held on November 1, 2011, to hear protests and resolve any inconsistencies or inequities raised by hotel owners/operators regarding the non-payment of Transient Occupancy Taxes.

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 a public hearing 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 6, 2011. A resolution has been prepared confirming the placement of liens on five (5) properties and authorizing the subsequent assessment for all fees and charges.

KEY ISSUES AND IMPACTS

The lien will be recorded against five (5) properties. The parcels' delinquency represents \$44,551.99 for past due Transient Occupancy Tax. Failure to place the lien will result in a loss of \$44,801.99 to the General fund. The \$250 additional revenue is derived from the \$50 administrative fee per lien for the five (5) properties.

POLICY DESCRIPTION

Pursuant to Chapter 4.24 of the Oakland Municipal Code, an administrative hearing for delinquent Transient Occupancy Taxes is held to hear protests and resolve any inconsistencies or inequities raised by property owners/operators prior to the public hearing before City Council.

SUSTAINABLE OPPORTUNITIES

Collections of delinquent Transient Occupancy Taxes have major economic and social equity implications for the City's sustainability. The revenue source is relied upon to fund essential City services.

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DISABILITY AND SENIOR CITIZEN ACCESS

There are no impacts on disability and senior citizen access.

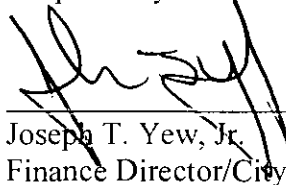
RECOMMENDATION AND RATIONALE

Staff recommends that the City Council pass the resolution confirming the placement of liens and authorize the subsequent assessment for all fees and charges should they remain unpaid prior to the transfer of said assessment to the County Assessor for inclusion on the next property tax assessment.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests City Council to approve the placement of liens and authorize the subsequent assessment for all fees and charges should they remain unpaid prior to the transfer of said assessment to the County Assessor for inclusion on the next property tax assessment.

Respectfully submitted,



Joseph T. Yew, Jr.
Finance Director/City Treasurer

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

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

Item: _____
City Council
December 6, 2011

PUBLIC HEARING LIEN LIST FOR TRANSIENTY OCCUPANCY TAX (TOT)
ADMINISTRATIVE HEARING: NOVEMBER 1, 2011
PUBLIC HEARING: DECEMBER 6, 2011

<u>Acct #</u>	<u>Owner Name</u>	<u>Hotel Name</u>	<u>Property Address</u>	<u>Parcel #</u>	<u>\$ Amt Tax Liab</u>	<u>\$ Amt Lien</u>	<u>Delinquency Period(s)</u>
28026752	ENG KAI T & PAMELA M	Old Oakland Hotel	801 Washington St	001 020302700	\$ 9,275.00	\$ 9,325.00	June 2011
3325687	JACK LONDON TOWERS LLC	Jack London Inn	444 Embarcadero	001 014101702	\$ 30,668.06	\$ 30,718.06	June 2011 through July 2011
28009618	MULUGETA BENYAM & PAULA R	Lake Merritt Lodge	2332 Harrison St	010 076800500	\$ 2,415.21	\$ 2,465.21	April 2011 through June 2011
2525135	REED BRENDA H	Acacia House	6276 Acacia Ave	048A710701700	\$ 1,150.10	\$ 1,200.10	April 2011 through June 2011
453560	R K INVESTMENTS INC	Imperial Inn	490 W MacArthur Blvd	012 097402401	\$ 1,043.62	\$ 1,093.62	July 2011
				Total Due	\$ 44,551.99	\$ 44,801.99	

OAKLAND CITY COUNCIL

Katherine M. Boyd
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 NOV 21 PM 3:35

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 6th day of December 2011, 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 6, 2011, 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 6th day of December 2011, 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 2012, 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 2012-2013 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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Kathleen Helen Boyd
City Attorney

2011 NOV 21 PM 12:57 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 6th day of December 2011, 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 6, 2011, 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 6th day of December 2011, 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 2012, 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 2012-2013 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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Karen A. Boyd
City Attorney

2011 NOV 21 PM 12:59 RESOLUTION NO. _____ C.M.S.

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 6th day of December 2011, 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