




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Margaret O'Brien
Interim Director of Finance

SUBJECT: Delinquent Business Taxes

DATE: November 2, 2020

City Administrator Approval 

Date: Nov 13, 2020

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Accepting And Confirming Reports Of The City Administrator On The Costs Incurred By The City Of Oakland For Delinquent Business Taxes And Confirming The Recordation Of Liens With Administrative And Assessment Charges As Necessary Pursuant To Chapter 5.04 Of The Oakland Municipal Code, And Directing The Notice Of Lien And Assessment Charges Be Turned Over To The County Tax Collector For Collection (Option 1); or

Adopt A 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 Business Taxes And Authorizing The Recordation Of Liens With Administrative And Assessment Charges As Necessary Pursuant To Chapter 5.04 Of The Oakland Municipal Code, And Directing The Notice Of Lien And Assessment Charges Be Turned Over To The County Tax Collector For Collection (Option 2); or

Adopt A Resolution Continuing Hearing Of The Reports Of The City Administrator On Delinquent Business Taxes And The Recordation Of Liens With Administrative And Assessment Charges As Necessary Pursuant To Chapter 5.04 Of The Oakland Municipal Code (Option 3).

EXECUTIVE SUMMARY

Staff recommends the adoption of the proposed resolution (**Option 1**), which will authorize the placement of liens on real property for unpaid Business Taxes ("BT") and authorize the subsequent assessment, pursuant to Chapter 5.04 of the Oakland Municipal Code (O.M.C.), should the fees and charges remain unpaid prior to the transfer/recording of said special assessment levies to the Alameda County Tax Collector and Auditor Controller for inclusion on the next property tax roll. The liens will be recorded against 1,389 delinquent parcels in an amount of \$1,827,480.50 as well as \$208,350.00 for administrative fees, for a total property tax roll of \$2,035,830.50. Failure to place liens to recover the delinquent taxes will result in a loss of \$2,035,830.50 in revenues to the General Purpose Fund.

BACKGROUND / LEGISLATIVE HISTORY

Chapter 5.04 of the OMC provides that “the amount of business tax, penalty and interest imposed under the provisions of this chapter is assessed against the business property on which the tax is imposed in those instances where the owner of the business and the business property are one and the same.” Pursuant to Chapter 5.04 of the Oakland Municipal Code, staff cross-referenced Alameda County Assessor data with the business tax system data to identify potential non-compliant/delinquent business operators where the owner of the business and the business property are one and the same. During the review and assessment process, 2,045 property owners were notified to address delinquent business taxes determined to be owed to the City. An administrative hearing for delinquent business taxes was held on October 16, 2020 to hear protests and to resolve any inconsistencies or inequities raised by the property owners regarding the non-payment of business taxes. Property owners were given the opportunity to appeal their cases in this administrative process.

ANALYSIS AND POLICY ALTERNATIVES

An administrative hearing for delinquent business taxes was held on October 16, 2020, to hear protests and resolve inconsistencies or inequities raised by property owners regarding the non-payment of business taxes. A resolution has been prepared confirming the placement of liens on 1,389 properties and authorizing the subsequent assessment for all fees and charges.

A total of seven taxpayers appeared at the Second Quarter Lien (2QL) Administrative Hearing on October 16, 2020.

Ultimately, of the originally identified 2,045 properties, 656 were deleted from the list through the administrative hearing process, payments, and/or account closures.

The remaining 1,389 non-responders were notified of the City’s intent to record a lien against their property; these remaining parcels are subject to lien. A breakdown by property type of the parcels are as follows (**Table 1**):

Table 1: Property type

Property Use	Number of Accounts	Total Value of Liens
Commercial	66	\$ 260,324.47
Improved Commercial 8x Series	8	\$ 38,679.58
Industrial	5	\$ 23,022.21
Multi Residential, 2-4 Units & Mobile Homes	637	\$ 741,449.79
Multi Residential, 5 or More Units	114	\$ 499,467.10
Single Family Residential	559	\$ 472,887.35
Total	1,389	\$ 2,035,830.50

Approximately 184 of the 1,389 properties have been identified as possible business owner-occupied, due to the fact that the property parcel and mailing address were the same. Of the properties identified as Single Family Residential, 50 have been identified as business owner-occupied, with the property parcel and mailing address being the same. **Table 2** below reflects the total lien value associated with business owner-occupied properties.

Table 2: Possible Business Owner occupied properties

Property Use	Number of Accounts	Total Value of Liens
Possible business owner occupied, multifamily residential	134	\$ 125,947.00
Possible business owner occupied, single family residential	50	\$ 37,123.82
Total	184	\$ 163,070.82

Following the administrative hearings, the Finance Director filed with the City Administrator a written notice of those property owners 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 on delinquent business taxes, and additional administrative charges and assessments. The delinquent charges and assessments shall constitute a special assessment against said property and shall be collected at the time established by the County Assessor for inclusion in the next property tax assessment.

FISCAL IMPACT

Property owners owe the City delinquent business taxes and administrative fees for the accounts not resolved at the administrative hearings as shown in **Attachment A**. Failure to place liens on these properties will result in the loss of \$1,827,480.50 in General Purpose Fund revenues and \$208,350.00 in administrative fees, for a total of \$2,035,830.50 over this period.

PUBLIC OUTREACH / INTEREST

Property owners were notified and an administrative hearing for delinquent business taxes was held on October 16, 2020 to hear protests and resolve any inconsistencies or inequities raised by property owners regarding the non-payment of business taxes. Property owners subject to a property lien were sent lien notices on October 5, 2020 and notified of the public hearing.

The public hearing is considered the time at which the City Council formally opens the public hearing and ends when the City Council formally closes the public hearing. At the public hearing the Council will hear the City Administrator's reports on delinquent business taxes and proposed recordation of liens, along with any objections or protests which may be raised by any of the property owners liable to be assessed for costs incurred for delinquent business taxes, and any other interested persons, such as those that have a right in or claim against the subject property.

COORDINATION

In coordination with the Budget Bureau, the agenda report, resolutions, and supporting items attached to this report, as well as the accompanying resolution, have been reviewed and/or approved for fiscal implications.

SUSTAINABLE OPPORTUNITIES

Economic: Collections of delinquent business 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 recordation of liens.

Race and Equity: Collections of delinquent business taxes do not have significant race or equity implications. However, the revenue source is relied upon to fund essential City services to all citizens and taxpayers.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Accepting And Confirming Reports Of The City Administrator On The Costs Incurred By The City Of Oakland For Delinquent Business Taxes And Confirming The Recordation Of Liens With Administrative And Assessment Charges As Necessary Pursuant To Chapter 5.04 Of The Oakland Municipal Code, And Directing The Notice Of Lien And Assessment Charges Be Turned Over To The County Tax Collector For Collection. (Option 1)

For questions regarding this report, please contact ROGERS AGABA, INTERIM REVENUE & TAX ADMINISTRATOR at (510) 238-7009.

Respectfully submitted,

Margaret L. O'Brien

MARGARET O'BRIEN
Interim Director of Finance
Finance Department

Reviewed by:
Rogers Agaba, Interim Revenue & Tax
Administrator
Revenue Management Bureau

Prepared by:
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Revenue Management Bureau

Attachment 1: 2nd Quarter 2021 Business Tax Liens