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OFFICE OF THE CITY CLERK
OAKLAND

AGENDA REPORT

2012 JUN -6 PM 4:21

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Sabrina Landreth

SUBJECT: Delinquent Transient Occupancy Taxes

DATE: May 10, 2012

City Administrator
Approval

Date

6/05/12

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.

EXECUTIVE 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. The transient's debt to the City is extinguished if the tax is paid to the hotel operator at the time the rent is paid. Hotel/motel operators, in turn, are responsible for reporting and remitting the tax to the Tax Administrator or his designee no later than the tenth day following each month of collection of tax.

An administrative hearing for delinquent Transient Occupancy Taxes was held on May 8, 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 June 19, 2012, 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.

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OUTCOME

The lien will be recorded against five (5) properties. The parcels' delinquency represents \$111,321.13 for past due Transient Occupancy Tax. Failure to place the lien to recover the delinquent taxes will result in a loss of \$111,571.13 in estimated revenues to the General Purpose Fund. The \$250 in additional revenue is derived from the \$50 administrative fee per lien for the five (5) 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 May 8, 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 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 June 19, 2012. A resolution is prepared confirming the placement of liens on five (5) 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 May 8, 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 \$111,321.13 and administrative fees totaling \$250, creating a grand total of \$111,571.13 for this period.

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PUBLIC OUTREACH/INTEREST

Administrative hearings for delinquent Transient Occupancy Taxes were held on May 8, 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

Hotel owners/operators owe delinquent Transient Occupancy Taxes and administrative fees to the City for accounts not resolved at the May 8, 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 \$111,321.13 and administrative fees totaling \$250, creating a grand total of \$111,571.13 for this period.

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.

CEQA

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,



Sabrina Landreth.
Budget Director
Budget & Revenue Division

Prepared by:
David McPherson, Revenue & Tax Administrator
Budget & Revenue Division

Attachment (1) – Administrative Hearing Lien List for Transient Occupancy Tax (TOT)

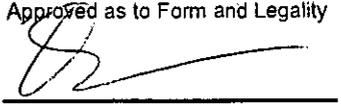
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ADMIN HEARING LIEN LIST FOR TRANSIENT OCCUPANCY TAX (TOT)

ADMIN HEARING: MAY 8, 2012

PUBLIC HEARING: JUNE 19, 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>\$ Amt Lien</u>	<u>Delinquency Period(s)</u>
1753282	HEMANT INVESTMENTS LLC	Quality Inn	8471 Enterprise Wy	042 432300305	\$ 50,960.00	\$ 51,010.00	January 2012 through February 2012
3325687	JACK LONDON TOWERS LLC	Jack London Inn	444 Embarcadero	001 014101702	\$ 48,974.65	\$ 49,024.65	August 2011 through January 2012
3405915	LANDOWNERS OF OAKLAND AIRPORT HOTEL LTD	Red Lion tnn	150 Hegenberger Rd	044 502000543	\$ 8,206.30	\$ 8,256.30	February 2012
28009618	MULUGETA BENYAM & PAULA R	Lake Merritt Lodge	2332 Harrison St	010 076800500	\$ 2,438.10	\$ 2,488.10	July 2011 through September 2011
3128547	NEWMAN, BOBBY & PATEL, ASHO	Highlander Motel	3255 MacArthur Blvd	028 094502901	\$ 742.08	\$ 792.08	August 2011
Total Due					\$ 111,321.13	\$ 111,571.13	



City Attorney

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OAKLAND

OAKLAND CITY COUNCIL

2012 JUN -6 11:42 AM
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 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, June 19, 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 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



City Attorney

FILED
OAKLAND CITY COUNCIL
OFFICE OF THE CITY CLERK
OAKLAND

2012 JUN -6 PM 4:21
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 19th day of June 19 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

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND


City Attorney

RESOLUTION NO. _____ C.M.S.

2012 JUN -6 PM 4:21

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 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, June 19, 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 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