

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2008 SEP 11 PM 3:04

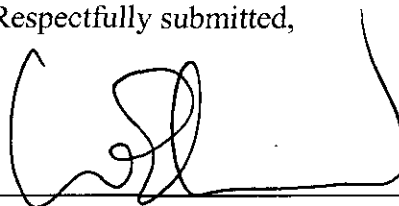
TO: Office of the City Administrator  
ATTN: Dan Lindheim, Acting City Administrator  
FROM: Finance and Management Agency  
DATE: September 23, 2008

RE: **Informational Report on the Business Tax Board of Review Meeting for the  
Second Quarter of Calendar Year 2008**

---

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

Respectfully submitted,



---

WILLIAM E. NOLAND, Agency Director  
Finance and Management Agency

Prepared by: Terry Adelman  
Revenue Manager  
Revenue Division

Attachments

FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE



---

Office of the City Administrator

Item: \_\_\_\_\_  
Finance and Management Committee  
September 23, 2008



Revenue Division

(510) 238-7317  
FAX (510) 238-6431  
TDD (510) 238-3254HONORABLE CITY COUNCIL  
Oakland, CaliforniaSubject: Information Report on the Business Tax Board of Review Meeting for the  
Second Quarter of Calendar Year 2008

Members of the City Council:

This is an informational report on the Business Tax Board of Review meeting held during the 2nd quarter of calendar year 2008. Per the request of the Finance and Management Committee, a brief narrative on the decisions by the Board, as well as appeals made by taxpayers, are outlined. The Business Tax Board of Review has convened one (1) regular meeting in the second quarter of calendar year 2008. The meeting was held on May 28, 2008. The following is a summary of the decisions rendered by the Board:

There were three (3) Board members present at this meeting, which was schedule to hear (2) cases. The Board heard both cases and both were decided in favor of the City. The two (2) cases heard were:

**1) Oakland 14th Office Inc** - The issue before the Board was that Oakland 14th claimed entitlement to a refund of business taxes paid for years 2001 – 2005, because it is a nonprofit organization under State & Federal law. Staff denied the refund based upon the applicable provisions of Title 5, Chapter 5.04 Business Taxes Generally of the Oakland Municipal Code (OMC).

Oakland 14th Office, Inc., a nonprofit corporation, paid business taxes to the City. OMC Section 5.04.630 requires companies that qualify for nonprofit tax-exempt status under State/Federal law to submit an annual statement to the Business Tax Section to establish eligibility for an exemption. Oakland 14th did not submit the annual filings necessary for an exemption. (An exemption letter from the Franchise Tax Board dated March 26, 2002 spelled out for claimant that exemption from federal income or other taxes and other state taxes would require separate applications). Oakland 14th claimed that it wasn't required to pay City taxes because as a nonprofit corporation exempt from taxation under the Section 501 of the Internal revenue Code it is also exempt from local business taxes. (California Constitution section 23701). Also, based on the Business Tax "Saving Clause" (OMC § 5.04.560), the Company argued that the Business Tax requirements relating to verification of exemption eligibility and claims for refunds do not apply to the nonprofits such as claimant.

Item: \_\_\_\_\_  
Finance and Management Committee  
September 23, 2008

Oakland 14th's first request for refund dated February 21, 2006 was denied as invalid because it was signed by an agent not authorized under OMC § 5.04.540(C) [an agent of the taxpayer may not sign a refund claim]. A second conforming request for refund was submitted on April 25, 2006. The Company did not meet the one-year filing requirement for all payments made on the account. OMC Section 5.04.540 (A) – a request for refund must be filed with the Director of Finance within one-year from the date the tax was paid.

The Board found and determined that Oakland 14th Office, Inc. was subject to but failed to adhere to the Business Tax requirements regarding application and submittal of an annual statement for nonprofit corporations. Also, Oakland 14th did not comply with the filing requirements applicable to claims for refund.

The Board voted 3 to 0 in favor of the City.

**2) Interstate Management Company** – The issues before the board were whether Interstate Management Company (IMC) was properly classified as a professional management company and whether its reimbursed expenses should be included in its taxable base.

IMC provides management services to the Claremont Hotel. It has reported and paid business taxes based on the management fee it receives for its management services, and has excluded from reported receipts reimbursable expenses. In its "New Business" application and statements on its website, IMC identifies itself as a company that provides hotel management services. The staff at the Claremont who manage the hotel are employed by IMC rather than the hotel owner/operator. Under the language of section 5.04.340 and according to long-standing interpretation and application of the ordinance, all receipts received directly by a professional management company and deposited by the taxpayer into its own accounts are treated as the taxable gross receipts even if the taxpayer receives reimbursements from the business owner for expenses incurred by the management company.

The Board finds and determines that the evidence established that IMC provides professional management services and is correctly classified as "F" - Professional Services, pursuant to O.M.C. § 5.04.340. The Board further finds that IMC's the business tax liability is properly based on the gross receipts received, inclusive of reimbursed expenses.

The Board voted 3 to 0 in favor of the City.

Respectfully Submitted,



CHARLES CONRADI

President, Business Tax Board of Review

Item: \_\_\_\_\_  
Finance and Management Committee  
September 23, 2008