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October 28, 2003

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Chairman Wan and Members of the  
Finance and Management Committee  
City Hall  
Oakland, California 94612

Re: Ordinance Amendina the Composition of the Business Tax Board of Review

Ladies and Gentlemen:

Section 5.04.550 of the Oakland Municipal Code (the "Code") establishes the Business Tax Board of Review (the "Board"). The City Manager, the City Auditor, the City Attorney and two community members nominated by the Mayor and appointed by the Council are members of the Board.

The City Attorney advises the Board on all legal matters arising from the activities of the Board and believes that it is in the best interests of the City of Oakland that the City Attorney not be a member of the Board, but continues to serve the Board as its legal advisor. This will allow the City Attorney to freely advise staff on matters pending before the Board. It will also enhance the City Attorney's ability to defend the Board's action should it be challenged in court.

An ordinance has been prepared which removes the City Attorney as a member of the Board and provides that an employee of the City selected by the City Manager serve on the Board.

Respectfully Submitted,

John Russo  
City Attorney

Prepared By: Michelle W. Sexton  
Deputy City Attorney

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**FINANCE & MANAGEMENT CMTE.**

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OFFICE OF THE CITY CLERK  
APPROVED AS TO FORM AND LEGALITY  
*Michael W. Smith*  
CITY ATTORNEY  
2003 SEP -3 PM 12:27

ORDINANCE NO. \_\_\_\_\_ C.M.S.

**AN ORDINANCE AMENDING CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE TO REMOVE THE CITY ATTORNEY AS A MEMBER OF THE BUSINESS TAX BOARD OF REVIEW AND PROVIDE THAT THE CITY MANAGER SHALL SELECT AN EMPLOYEE OF THE CITY TO SERVE AS A MEMBER OF THE BUSINESS TAX BOARD OF REVIEW**

**WHEREAS**, pursuant to Section 5.04.550 of the Oakland Municipal Code (the "Municipal Code"), the City Manager, the City Auditor, the City Attorney and two community members nominated by the Mayor and appointed by the Council currently comprise the Business Tax Board of Review (the "Board"); and

**WHEREAS**, the City Attorney advises the Board on all legal matters arising from the activities of the Board; and

**WHEREAS**, the City Attorney believes that it is in the best interests of the City of Oakland that the City Attorney not be a voting member of the Board; and

**WHEREAS**, the City Attorney will continue to serve the Board as its legal advisor: and

**WHEREAS**, Council desires to remove the City Attorney as a member of the Board and amend Section 5.04.550 of the Municipal Code to provide that an employee of the City selected by the City Manager serve on the Board;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

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SECTION 3. Paragraph A of Section 5.04.550 of the Municipal Code is hereby amended in its entirety to read as follows:

**5.04.550 Board of Review.**

A. Composition. A business tax board of review [the "Board"] consisting of the City Manager, the City Auditor,, ~~the City Attorney~~ an employee of the City selected by the City Manager. and two community members nominated by the Mayor and appointed by the Council each for a term of four years is hereby created. The ~~Board~~ shall select from its members a chairperson who shall serve at its pleasure. The City Manager, and the City Auditor ~~and City Attorney~~ may each deputize in writing filed with the ~~Board~~ for such period or for in ~~such hearings as may be desired, to serve as his/her designee to the Board.~~ A majority of members of the Board shall constitute a quorum. The Board shall be deemed to be in the ~~Office of Finance and Management Agency,~~ shall meet and keep its files in such office and all filings with the Board relating to appeals or otherwise shall be mailed to Chairperson, Business Tax Board of Review in care of ~~City Office of Finance, One City Hall Business Tax Section – Finance and Management Agency, 250 Frank H. Ogawa Plaza, Suite 1320, Oakland, CA 94612.~~ Neither the members of the Board nor the members of their offices deputized to serve in their places at any time shall receive any compensation as such members or acting members for their services on the Board.

IN COUNCIL, OAKLAND, CALIFORNIA, SEPTEMBER \_\_, 2003

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION

ATTEST:

CEDA FLOYD  
City Clerk and Clerk of ~~the~~ Council  
of the City of Oakland, California

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**FINANCE & MANAGEMENT CMTE.**

**OCT 28 2003**

*Michelle Soto*

**NOTICE AND DIGEST**

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**AN AMENDMENT TO CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE REMOVING THE CITY ATTORNEY AS A MEMBER OF THE BUSINESS TAX BOARD OF REVIEW AND PROVIDING THAT A CITY EMPLOYEE CHOSEN BY THE CITY MANAGER SHALL SERVE AS A MEMBER OF THE BUSINESS TAX BOARD OF REVIEW**

This ordinance amends the composition of the City of Oakland Business Tax Board of Review by removing the City Attorney as a member of the Business Tax Board of Review.

This ordinance provides the City Manager shall select a City employee to serve as a member of the Business Tax Board of Review.

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