

Memorandum



Date: May 13, 2021

To: Chair Nelson and Board of Supervisors

From: Harry Hagen, Treasurer-Tax Collector

HH: H

Subject: Attachment to Always Full, LLC Appeal of Assessed Transient Occupancy Tax (TOT), Interest and Penalties (Item A34)

Attached is "Attachment 3" to the Always Full, LLC Appeal of Assessed Transient Occupancy Tax (TOT), Interest and Penalties set-hearing request for the 5/18/21 Board Meeting.

Attachment 3 is Always Full, LLC's appeal packet, and they have requested that it be included in the hearing materials.

ATTACHMENT 3

ROBERT L. LIEFF

ATTORNEY AT LAW

EMBARCADERO CENTER WEST
275 BATTERY STREET, 29TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3339

April 2, 2021

Jacquelyne Alexander
Chief Deputy Clerk of the Board
Natasha Carbajal
Assessment Appeals Clerk
Santa Barbara County Board of Supervisors
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101

RECEIVED
ZM AM -6 P 1:59
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

RE: Transient Occupancy Tax Hearing on 10/14/2020 – Final Determination
Always Full, LLC – Auberge Los Olivos, 2910 Hwy 154 #1, Los Olivos, CA 93441

Dear Ms. Alexander and Ms. Carbajal:

This is an appeal of the final determination made by the Treasurer-Tax Collector dated March 23, 2021, which is attached hereto.

My wife Susan Lieff is appealing based on the fact that as a resident of Los Angeles when the Transient Occupancy Tax (TOT) was implemented, she had no knowledge of its existence. We have made this clear, many times, to the Treasurer-Tax Collector's Office to both the Tax Collector Harry E. Hagen and the Treasury Finance Chief LeAnne Hagerty.

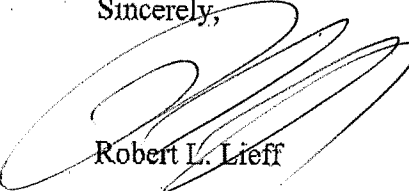
As you can see from my email to LeAnne Hagerty dated March 23, 2021, my wife has spent more than \$30,000.00 in attorneys' fees regarding this matter, to date. We offered two possibilities for resolution. That is, the payment of the entire TOT of \$99,769.38 on a monthly basis for 36 months at \$2,771.00 per month or a single one-time payment of \$65,000.00. The penalties and interest are totally inappropriate since action was taken by my wife immediately when advised.

As a co-owner of the property, as of March 2021, and as my wife's attorney, I think the offer communicated by me is more than generous. Indeed, under the circumstances, I do not believe she owes anything given the fact that she was never advised of the TOT and that the focus of being singled out, discriminated against, pursued and targeted should never have arisen but through the efforts of an obsessive neighbor, Wendy Tillman. As far as we are aware, the Tax Collector and the Treasury Finance Chief have not pursued any person other than my wife regarding the TOT. It seems to me that this discrimination against one person should bring closure to this matter, immediately.

Santa Barbara County Board of Supervisors
April 2, 2021
Page 2

Please advise us when we will have a hearing before the Board of Supervisors. Thank
you.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above the printed name.

Robert L. Lief

RLL:ls

Attachments

Simms, Lanita

From: Hagerty, LeAnne <Lhagerty@co.santa-barbara.ca.us>
Sent: Friday, April 02, 2021 7:08 AM
To: Lieff, Robert L.; 'susankudo@gmail.com'
Cc: 'morris@quantumlawgroup.com'; Rierson, Anne; Hagen, Harry; Tesoro, Kim
Subject: RE: [EXTERNAL] Always Full LLC TOT Audit Final Determination

Dear Robert,

Thank you for your email. Unfortunately, the Treasurer-Tax Collector is not in the position to negotiate a TOT settlement.

Sincerely,

LeAnne Hagerty, CPA, CPFO
Treasury Finance Chief
County of Santa Barbara
(805) 568-2498

From: Simms, Lanita <LSIMMS@lchb.com> **On Behalf Of** Lieff, Robert L.
Sent: Tuesday, March 23, 2021 9:08 AM
To: Hagerty, LeAnne <Lhagerty@co.santa-barbara.ca.us>; 'susankudo@gmail.com' <susankudo@gmail.com>; Lieff, Robert L. <RLIEFF@lchb.com>
Cc: 'morris@quantumlawgroup.com' <morris@quantumlawgroup.com>; Rierson, Anne <Arierson@co.santa-barbara.ca.us>; Hagen, Harry <Hhagen@co.santa-barbara.ca.us>; Tesoro, Kim <Ktesoro@co.santa-barbara.ca.us>
Subject: RE: [EXTERNAL] Always Full LLC TOT Audit Final Determination

Caution: This email originated from outside of the County of Santa Barbara. Do not click links or open attachments unless you know the sender and know the content is safe.

Dear LeAnne,

As Susan Lieff's husband, in my personal capacity, I am responding to your email of March 19th regarding the TOT on 2910 Highway 154, Los Olivos, CA 93441, on behalf of both of us.

The total TOT, according to your calculation, is \$99,769.38. You have added penalties and interest of \$28,053.24. Susan has now spent more than \$30,000 in attorneys' fees, more than the penalty itself. We have instructed the lawyers not to spend any more time on this matter. Therefore, please do not contact them.

As you know, Susan has not done any short-term rentals since the TOT notice and she is now only receiving income from long-term renters. She has a license for three short-term rentals, but she has not used them.

Given the pressure of your office and of Wendy Tillman, Susan's income is substantially reduced and with COVID it has been a very depressed time.

Our approach and suggestion is that Susan pay the principal of \$99,769.38 over a period of 36 months; the same amount of time which she allegedly collected money for short-term rentals, which amounts to \$2,777 per month. This would take some of the pressure off of cash flow which has been substantially affected. Alternatively, Susan can seek to borrow funds and make a one-time payment of \$65,000.

We maintain that Susan truly did not know about TOT and from the time of your notice she applied for Homestay and actually stopped having short-term rentals altogether. Because of this, there should not be a punitive "Late Fee". She did not know or she would have paid. Susan's credit history shows that she pays everything on time and she will pay the \$2,777 exactly on time as well. With one of the above resolutions, we would also not appeal your decision. Please advise which one works for you so that both parties can resolve matters without further time and expense.

We do hope to bring an end to this unfortunate situation in which we believe Susan was the only person that you proceeded against to collect the TOT.

Again, Susan did not know about the TOT. Susan fully cooperated with your office and the fact that Susan was the latest target of Wendy Tillman must be of consideration to your office.

Sincerely,

**Lieff
Cabraser
Heimann &
Bernstein**

Attorneys at Law

Robert L. Lieff
Of Counsel
rlieff@lchb.com
t 415.956.1000
f 415.956.1008

Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
www.lieffcabraser.com

From: Hagerty, LeAnne [<mailto:Lhagerty@co.santa-barbara.ca.us>]

Sent: Friday, March 19, 2021 2:57 PM

To: 'susankudo@gmail.com'; Lieff, Robert L.

Cc: 'Petrovich, Susan'; 'Carlson, Mack'; 'morris@quantumlawgroup.com'; Rierson, Anne; Hagen, Harry; Tesoro, Kim

Subject: [EXTERNAL] Always Full LLC TOT Audit Final Determination

Good Afternoon,

We have concluded our Transient Occupancy Tax audit of Always Full, LLC and found that the total amount due to the County of Santa Barbara is \$127,822.61 (see attached computation). The final determination letter will be sent to your address in Pacific Palisades early next week.

Thank you,

LeAnne Hagerty, CPA, CPFO
Treasury Finance Chief
County of Santa Barbara
(805) 568-2498

This message is intended for the named recipients only. It may contain information protected by the attorney-client or work-product privilege. If you have received this email in error, please notify the sender immediately by replying to this email. Please do not disclose this message to anyone and delete the message and any attachments. Thank you.

TREASURER-TAX COLLECTOR

HARRY E. HAGEN
CPA, CPFA, CPFO, CFIP, CGIP, ACPFIM
Treasurer – Tax Collector
Public Administrator – Public Guardian

KIMBERLY A. TESORO
CPA, CPFO, CFIP, CGIP
Assistant Treasurer – Tax Collector
Public Administrator – Public Guardian



105 E. Anapamu Street, Room 109
Santa Barbara, CA 93101-2062
Administration: (805) 568-2490
Property Tax: (805) 568-2920
Fax: (805) 568-2488

511 E Lakeside Parkway, Santa Maria
Telephone: (805) 346-8330
Fax: (805) 346-8331

Mailing Address:
Post Office Box 579
Santa Barbara, CA 93102-0579

March 23, 2021

Always Full, LLC
Attention: Robert & Susan Lieff
230 Mantua Road
Pacific Palisades, CA 90272

RE: Transient Occupancy Tax Hearing on 10/14/2020 – Final Determination

Dear Mr. & Mrs. Lieff:

Thank you for testifying at the Transient Occupancy Tax (TOT) hearing for Always Full, LLC on October 14, 2020. The purpose of the hearing, under Santa Barbara County (SBC) Code Section 32-17, was for the operator, Always Full, LLC, to show cause why the amount specified in the Treasurer-Tax Collector's notice dated July 30, 2020 should not be fixed for such tax, interest and penalties. At this hearing and subsequent to the hearing, the operator offered evidence to this effect. We carefully reviewed the evidence submitted and have recalculated the amount due to the County of Santa Barbara.

Final Finding

The Profit and Loss Statement for Always Full, LLC reported short term rental income as \$1,075,595.70 for the three years under audit. Based on the evidence provided, we have determined that \$831,411.45 of this revenue is subject to TOT. During this time Always Full, LLC failed to report and remit TOT.

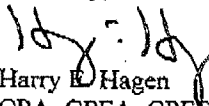
Action to Address Final Finding

The Tax Collector has determined that the amount due from Always Full, LLC is \$127,822.61, consisting of \$99,769.37 in TOT, \$19,765.74 in penalties, and \$8,287.50 in interest (please see attached computation). This amount is hereby assessed against Always Full, LLC, and shall be promptly remitted to the County of Santa Barbara Treasurer-Tax Collector.

Pursuant to SBC Code Section 32-18, Always Full, LLC has the right to appeal the determination of the Treasurer-Tax Collector by filing a written notice of appeal with the Clerk of the Board within fifteen days of the mailing of this determination. The Board of Supervisors would then fix a time and date for an appeal hearing before the Board. The Clerk of the Board would then notify Always Full, LLC in writing of the hearing. Enclosed please find a copy of SBC Code Section 32-18, so that you may be fully aware of your rights.

If you have any questions or concerns regarding this notice, please contact our office.

Sincerely,


Harry E. Hagen
CPA, CPFA, CPFO, CFIP, CGIP, ACPFIM
Treasurer – Tax Collector

CC/ Susan Petrovich, Brownstein Hyatt Farber Schreck, LLP
Mack Carlson, Brownstein Hyatt Farber Schreck, LLP
Steven Morris, Quantum Law Group, LLP

ALWAYS FULL, LLC
 AUBERGE LOS OLIVOS - 2910 HWY 154 #1, LOS OLIVOS, CA 93441
 TRANSIENT OCCUPANCY TAX (TOT) CERTIFICATE #799
 TOT, PENALTIES & INTEREST (P&I) CALCULATION
 JANUARY 1, 2017 THROUGH DECEMBER 31, 2019

2017	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017	Jun 2017	Jul 2017	Aug 2017	Sep 2017	Oct 2017	Nov 2017	Dec 2017	2017 Total
Taxable Rental Income	12,196.02	17,933.20	11,977.85	23,680.02	19,715.81	22,588.94	29,484.30	17,380.07	23,712.16	25,492.27	24,192.40	23,363.23	\$ 251,716.27
TOT Rate	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
TOT Amount Due	1,463.52	2,151.98	1,437.34	2,841.60	2,365.90	2,710.67	3,538.12	2,085.61	2,845.46	3,059.07	2,903.09	2,803.59	30,205.95
Penalty Rate	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	
Late Penalties Due**	292.70	430.40	287.47	568.32	473.18	542.13	707.62	417.12	569.09	611.81	580.62	560.72	6,041.19
Number of Delinquent Months	35	34	33	32	31	30	29	28	27	26	25	24	
0.5% Interest Rate Per Month	7.32	10.76	7.19	14.21	11.83	13.55	17.69	10.43	14.23	15.30	14.52	14.02	
Total Interest Due**	256.12	365.84	237.16	454.66	366.71	406.60	513.03	291.99	384.14	397.68	362.89	336.43	4,373.23

2018	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018	2018 Total
Taxable Rental Income	17,867.36	17,589.74	18,777.81	14,911.07	30,029.57	18,192.94	21,293.41	20,944.05	28,857.59	30,367.39	21,577.25	40,221.28	\$ 280,629.46
TOT Rate	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
TOT Amount Due	2,144.08	2,110.77	2,253.34	1,789.33	3,603.55	2,183.15	2,555.21	2,513.29	3,462.91	3,644.09	2,589.27	4,826.55	33,675.54
Penalty Rate	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	
Late Penalties Due**	428.82	422.15	450.67	357.87	720.71	436.63	511.04	502.66	692.58	728.82	517.85	965.31	6,735.11
Number of Delinquent Months	23	22	21	20	19	18	17	16	15	14	13	12	
0.5% Interest Rate Per Month	10.72	10.55	11.27	8.95	18.02	10.92	12.78	12.57	17.31	18.22	12.95	24.13	
Total Interest Due**	246.57	232.18	236.60	178.93	342.34	196.48	217.19	201.06	259.72	255.09	168.30	289.59	2,824.06

2019	Jan 2019	Feb 2019	Mar 2019	Apr 2019	May 2019	Jun 2019	Jul 2019	Aug 2019	Sep 2019	Oct 2019	Nov 2019	Dec 2019	2019 Total
Taxable Rental Income	14,838.86	26,120.51	30,225.52	21,629.58	47,024.73	32,494.80	39,375.44	18,785.32	29,887.98	25,338.28	11,010.88	2,333.82	\$ 299,065.72
TOT Rate	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
TOT Amount Due	1,780.66	3,134.46	3,627.06	2,595.55	5,642.97	3,899.38	4,725.05	2,254.24	3,586.56	3,040.59	1,321.31	280.06	35,887.89
Penalty Rate	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	10%	n/a	
Late Penalties Due**	356.13	626.89	725.41	519.11	1,128.59	779.88	945.01	450.85	717.31	608.12	132.13	-	6,989.44
Number of Delinquent Months	11	10	9	8	7	6	5	4	3	2	1		
0.5% Interest Rate Per Month	8.90	15.67	18.14	12.98	28.21	19.50	23.63	11.27	17.93	15.20	6.61	n/a	
Total Interest Due**	97.94	156.72	163.22	103.82	197.50	116.98	118.13	45.08	53.80	30.41	6.61	-	1,090.21

**P&I Calculation as of January 1, 2020

Grand Total Due **127,822.61**

Santa Barbara County, CA Code of Ordinances

Sec. 32-18. - Appeal from determination of tax collector.

Any operator aggrieved by any decision of the county tax collector with respect to the amount of such tax, interest and penalties, if any, may appeal to the board of supervisors by filing a notice of appeal with the county clerk within fifteen days of the serving or mailing of the determination of tax due. The board of supervisors shall fix a time and place for hearing such appeal, and the county clerk shall give notice in writing to such operator at his last known place of address. The findings of the board of supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. No. 1570, § 10)

FROM: (805) 969-7753
Mary Ortega
Montecito Executive Services
1482 E Valley Rd Ste 42
MONTECITO CA 93108
US

SHIP DATE: 02APR21
ACTWGT: 1.00 LB
CAD: 114512618/WSXI3600
BILL SENDER

560J2/SEF2/FE44

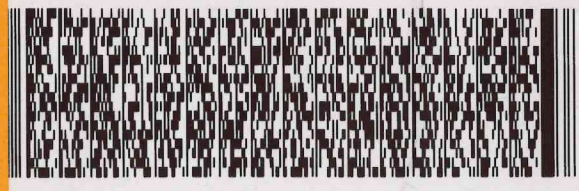
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2021 APR -6 P 1:59
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Assessment Appeals Clerk
Santa Barbara Board of Supervisors
105 E ANAPAMU ST RM 407

SANTA BARBARA CA 93101
(555) 000-0000 REF: ROBERT LIEFF
TNU: PKG ID: 160395 DEPT:

(US)

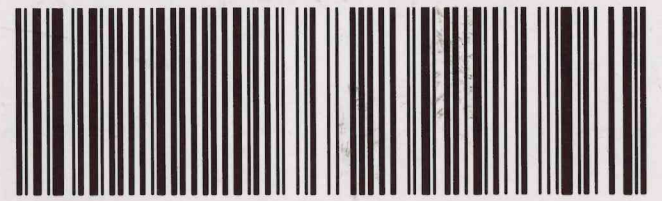


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TRK# 7855 2006 7081

93101

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93101-5054-01
SANTA BARBARA, CA 93101
105 E ANAPAMU ST RM 407
SANTA BARBARA, CA 93101
765-4526
PD SP: 100: N
ETP: 1
962200190000257656600785520067081

10n
08

Maguelyne Alexander
Chief Deputy Clerk

Natasha Carbajal
Assessment Appeals Clerk

Santa Barbara

105 E Anapamu St

Santa Barbara

Board of Supervisors
Street

93101