



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Treasurer-Tax
Collector-Public
Administrator
Department No.: 065
For Agenda Of: 4/5/2022
Placement: Departmental
Estimated Time: 1 hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Harry E. Hagen, CPA, CPFA, CPFO, CFIP, CGIP, ACPFIM
Director(s) Treasurer – Tax Collector
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Contact Info: LeAnne Hagerty, CPA, CPFO
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SUBJECT: Timothy Gault Appeal of the Treasurer-Tax Collector’s Transient Occupancy Tax Audit Final Determination

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions: Consider an appeal of the Treasurer-Tax Collector’s Transient Occupancy Tax (TOT) audit final determination for Timothy Gault. The appeal was filed by Mr. Gault.

Staff recommends that your Board take the following actions:

- A) Conduct a hearing on the appeal of the final determination of TOT, Tourism Business Improvement District assessment (TBID), interest and penalties assessed by the Treasurer-Tax Collector on Timothy Gault in the amount of \$25,623.17; and
- B) Uphold the Treasurer-Tax Collector's final determination and deny the appeal request for the reduction or waiver of TOT, TBID, interest and penalties; and
- C) Adopt the findings proposed by the Treasurer-Tax Collector; and
- D) Determine that the above actions involve government funding mechanisms and/or fiscal activities and are not a project under the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(4) of the CEQA Guidelines.

Summary Text:

The Treasurer-Tax Collector conducted an audit of the short-term rental activity of Timothy Gault for the period of December 1, 2017 to November 30, 2020. The purpose of the audit was to determine compliance with the Santa Barbara County Code Chapter 32, Article II (TOT Ordinance).

As a result of the audit, the Treasurer-Tax Collector determined that the amount due from Mr. Gault was \$25,623.17, consisting of \$19,442.74 in TOT, \$650.40 in TBID, \$4,018.63 in penalties, and \$1,511.40 in interest, and this amount was assessed against Mr. Gault.

Pursuant to County TOT Ordinance Section 32-18, Timothy Gault has appealed the determination of the Treasurer-Tax Collector to the County Board of Supervisors.

Background:

Under the County's TOT Ordinance, it is a lodging operator's obligation to apply for and obtain a Transient Occupancy Registration Certificate, and collect, report and remit the TOT on a monthly basis. Section 32-17 of the Ordinance describes the responsibility of the Treasurer-Tax Collector regarding the collection of TOT:

“If any operator shall fail or refuse to collect such tax and to make, within the time provided in this article any report and remittance of such tax or any portion thereof required by this article, the county tax collector shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the county tax collector shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this article and payable by any operator who has failed or refused to collect the same to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this article.”

Under the Santa Barbara South Coast Tourism Business Improvement District Management Plan, vacation rentals will be assessed a fixed TBID amount per paid unit per night basis. The assessment is levied upon and a direct obligation of the assessed lodging business. The TBID assessment is required to be remitted on a monthly basis.

In November 2020 the Treasurer-Tax Collector's office received a complaint regarding TOT violations arising from the operation of a “non-compliant” short-term rental business by Timothy Gault at 2525 Emerson St. in Summerland. Treasurer-Tax Collector staff reviewed the TOT files, and found that Mr. Gault did not have an active Transient Occupancy Registration Certificate, and had not been remitting TOT to the County.

In December 2020 a letter was sent to Timothy Gault to inform him that the Treasurer-Tax Collector would be auditing his records to review and discuss his compliance with the County's TOT Ordinance.

Due to the lack of response from Mr. Gault, the Treasurer-Tax Collector acquired facts and information on which to base an estimate of the tax due from him. A determination letter was sent to him on August 18, 2021 with the finding that he failed to report and remit TOT and TBID to the County, and delineating the amount due to the County.

Timothy Gault appealed to the Treasurer-Tax Collector for a hearing on the amount assessed. A hearing was held on September 30, 2021 after which Mr. Gault presented additional information that ultimately reduced, but did not eliminate the amount owed to the County. A final determination letter was sent to him on January 11, 2022 informing him that the amount due to the County was \$25,623.17.

Timothy Gault is appealing the Treasurer-Tax Collector's final determination to the County Board of Supervisors.

Special Instructions:

Clerk of the Board - please send the findings of the Board of Supervisors to Timothy Gault.

Attachments:

1. Appeal document prepared by Timothy Gault, appellant.
2. Timothy Gault Proposed Findings of the County of Santa Barbara Board of Supervisors
3. Santa Barbara County Code Chapter 32, Article II

Authored by:

LeAnne Hagerty, Treasury Finance Chief, CPA, CPFO - Office of the Treasurer – Tax Collector