

Timothy Gault Appeal
of the
Treasurer-Tax Collector's
Transient Occupancy Tax (TOT) Audit Final
Determination

Santa Barbara County Board of Supervisors

April 5, 2022

County of Santa Barbara
Treasurer-Tax Collector
LeAnne Hagerty, CPA
Treasury Finance Chief

Overview

Santa Barbara County Transient Occupancy Tax (TOT) Ordinance (Santa Barbara County Code Chapter 32, Article II)

- Every hotel, motel, and short-term rental operator in the unincorporated areas of Santa Barbara County is required to collect the TOT from transients who stay for a period of thirty (30) consecutive days or less.
- Operators are required to register their short-term rentals with the County Tax Collector within thirty days after commencing business.
- If any operator fails to collect and remit the tax to the Tax Collector, then the Tax Collector is to gather facts and information that he is able to obtain, in order to determine and assess the tax, interest and penalties on the operator.

Overview

Santa Barbara South Coast Tourism Business Improvement District (TBID) Plan

- Short-term rentals are assessed a fixed TBID amount on a per paid unit per night basis.
- The assessment is levied upon and a direct obligation of the short-term rental operator.
- The TBID assessment is required to be remitted to the Treasurer-Tax Collector on a monthly basis.

Overview

Treasurer-Tax Collector TOT Ordinance Enforcement

- Tax Collector's website has extensive information on TOT collection requirements.
- Conducts TOT audits primarily initiated by:
 - Change of ownership status
 - Public complaints
- Response to Public Complaints
 - A letter sent to the operator with information on the TOT collection requirements for short-term rentals.
 - A second letter is sent shortly thereafter informing the operator of the TOT audit of their short-term rental activity.

Audit Overview

Timothy Gault

- Audit covered the period of December 2017 – November 2020
- Reviewed financial documents (these contain confidential information, so are not provided at this hearing).
- Final audit determination – the amount due to the County is \$25,623.17.

Timothy Gault Appeal Issue

Claim –

Mr. Gault claims that he had no knowledge of the TOT and was never advised of it.

Response –

- The County's TOT Ordinance was adopted in August 1964. The requirement to collect and remit TOT is published within County Code Chapter 32, which is available online. The County has no further legal duty to notify "hotel" operators of this responsibility.
- The rental website used by Mr. Gault has clear instructions on who is responsible for collection & remittance of TOT – in Santa Barbara County, it is the operator's responsibility to do this.

Board Actions

Staff recommends that your Board take the following actions:

- A) Conduct a hearing on the appeal of the final determination of TOT, 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 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 as follows:
 - 1. The amount due from Timothy Gault is \$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.
 - 2. This amount assessed against Timothy Gault is immediately due and payable to the County of Santa Barbara Treasurer-Tax Collector upon the service of notice by the Clerk of the Board; 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.