



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:** 5/18/2021  
**Placement:** Set Hearing  
**Estimated Time:** 1 hour on 6/15/2021  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Harry E. Hagen, CPA, CPFA, CPFO, CFIP, CGIP, ACPFIM  
Director(s) Treasurer – Tax Collector  
(805) 568 – 2490  
Contact Info: LeAnne Hagerty, CPA, CPFO  
Treasury Finance Chief  
(805) 568 – 2498

**SUBJECT:** Always Full, LLC Appeal of Assessed Transient Occupancy Tax, Interest and Penalties

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**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:** On May 18, 2021, set a hearing for June 15, 2021 to consider an appeal of the Treasurer-Tax Collector's final Transient Occupancy Tax (TOT) determination for Always Full, LLC. The appeal was filed by Always Full, LLC.

On June 15, 2021, staff recommends that your Board take the following actions:

- A) Conduct a hearing on the appeal of the final determination of TOT, interest and penalties assessed by the Treasurer-Tax Collector on Always Full, LLC in the amount of \$127,822.61; and
- B) Uphold the Treasurer-Tax Collector's determination and deny the appeal request for the reduction or waiver of TOT, 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 Always Full, LLC for the period of January 1, 2017 to December 31, 2019. 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 Always Full, LLC was \$127,822.61, consisting of \$99,769.37 in TOT, \$19,765.74 in penalties, and \$8,287.50 in interest, and such tax, interest and penalties were assessed against Always Full, LLC.

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

**Background:**

Under the County's TOT Ordinance, it is the lodging operators' 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 in regards to 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.”

In November 2019 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 Always Full, LLC at 2910 Highway 154 in Los Olivos. Treasurer-Tax Collector staff reviewed the TOT files, and found that Always Full, LLC did not have a Transient Occupancy Registration Certificate, and had not been remitting TOT to the County.

In January 2020 a letter was sent to Always Full, LLC to inform them that the Treasurer-Tax Collector would be auditing their records to review and discuss their compliance with the County's TOT Ordinance.

Based on the financial information provided by Always Full, LLC, a determination letter was sent to them on July 20, 2020 with the finding that the LLC failed to report and remit TOT to the County, and delineating the amount due to the County.

Always Full, LLC applied to the Treasurer-Tax Collector for a hearing on the amount assessed. A hearing was held on October 14, 2020 at which Always Full, LLC presented additional information that ultimately reduced, but did not eliminate the amount owed to the County. The final determination letter was sent to the LLC on March 23, 2021 informing them that the amount due to the County was \$127,822.61.

Always Full, LLC contacted the Treasurer-Tax Collector and proposed a settlement, but as the TOT Ordinance does not address settlements by the Treasurer-Tax Collector, Always Full, LLC has appealed the final determination to the County Board of Supervisors.

**Special Instructions:**

Clerk of the Board - please send notice of hearing, and after the hearing please send the findings of the Board of Supervisors to Always Full, LLC c/o Robert L. Lieff, Attorney at Law, Embarcadero Center West, 275 Battery St, 29<sup>th</sup> Floor, San Francisco, CA 94111-3339 and to the operator (address will be provided).

**Attachments:**

1. Always Full, LLC Proposed Findings of the County of Santa Barbara Board of Supervisors
2. Santa Barbara County Code Chapter 32, Article II

**Authored by:**

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