

# **City of Manhattan Beach**

## **Shade Hotel Appeal Transient Occupancy Tax Audit Findings**

**September 19, 2017**



# Purpose & Process

- ▶ Conduct Appeal Hearing of the Tax Administrator (TA) Decision on Transient Occupancy Tax Due from Shade Hotel
  - City staff will present background information and audit findings
  - Rationale for TA Decision
  - Shade Hotel will present information in support of its appeal
- ▶ City Council will render a decision
- ▶ The findings of the Council shall be final and conclusive
- ▶ Municipal Code Section 8.20



# Background

- ▶ Audit firm retained through competitive process to perform audit of MB hotels (12) for compliance with City's Uniform Hotel/Motel Occupancy Tax Ordinance (MC 8.20)
  - Ordinance is standard; commonly used by cities throughout the State to define Transient Occupancy Tax (TOT)
- ▶ Audit covered CY 2012-2015



# Audit Findings – All Hotels

- ▶ Five hotels had no deficiencies
  - all taxes collected and reported accurately and in compliance with Municipal Code
- ▶ Seven hotels under-collected/under-reported TOT of \$99.70 to \$22,597.46
- ▶ Total TOT audit findings = \$59,514 due to City on hotel revenues of \$595,140
- ▶ Median amount due from 7 hotels = \$8,834
- ▶ Six hotels paid taxes due
- ▶ Shade appealed to the City Tax Administrator



# Audit Findings by Value

Type	Total-\$	Total-%	No. of Hotels
Long Term Stay Misclassification (over 30 days)	\$16,429	27.6%	4 (1 over reported)
Cancellation Fees Under Reported	\$10,710	18.0%	1
No Show Fees Under Reported	\$8,683	14.6%	2
Gross Rent Under Reported	\$7,734	13.0%	3
Pet Fees	\$7,424	12.5%	5
Attrition (unmet group commitment)	\$5,152	8.7%	1
Other (Early/Late Departure, Upgrade, Extra Person, Roll Away)	\$3,382	5.6%	3
Totals	\$59,514	100%	

**Audit closed out (paid) on all hotels with exception of Shade Hotel which appealed**



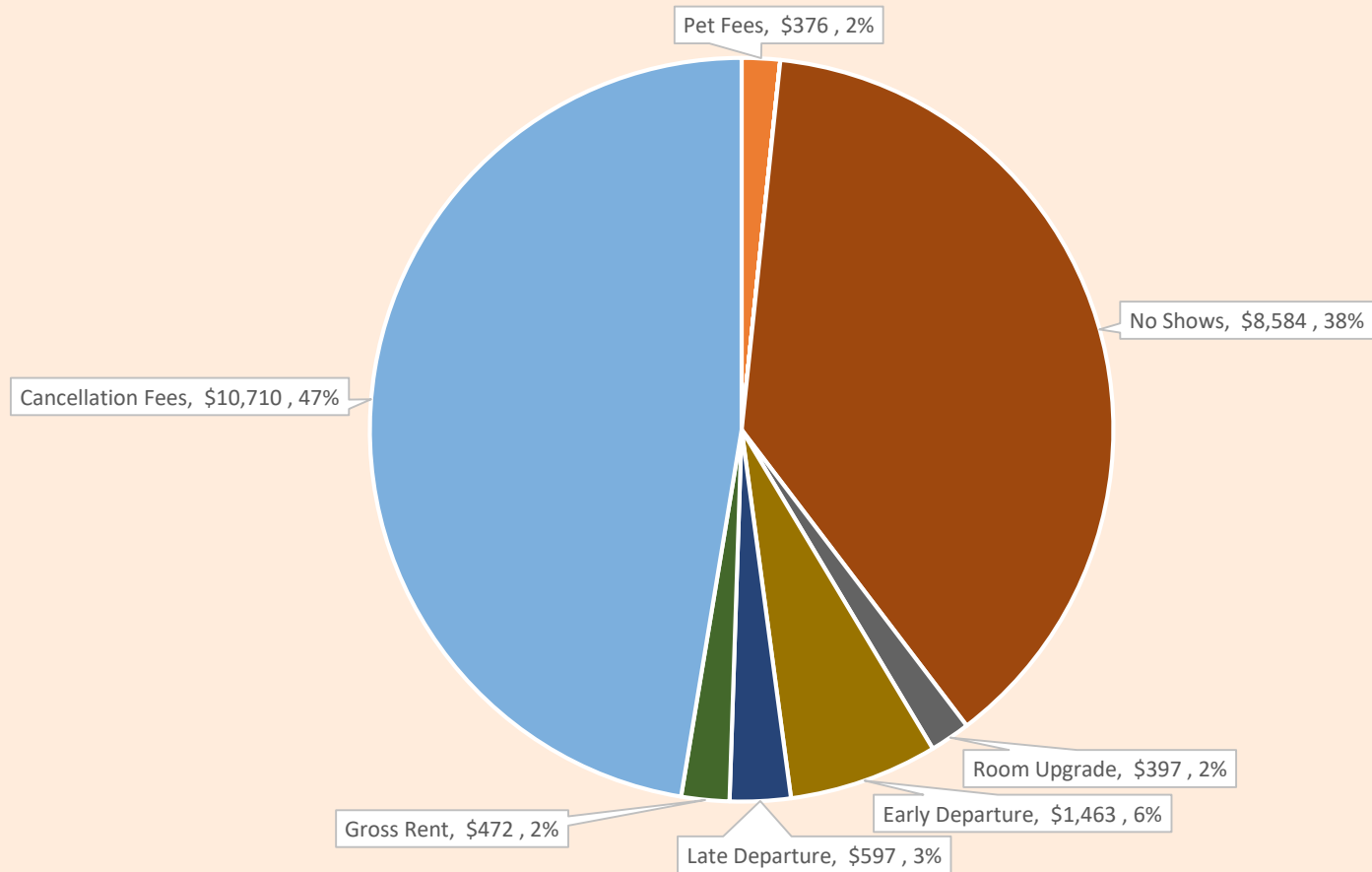
# Shade Appeal

- ▶ Shade appealed audit findings to Tax Administrator (Finance Director) in accordance with Municipal Code Section 8.20.080
- ▶ TA held in-office hearing with Shade representatives to discuss audit findings and hotel's position on taxes



# Shade Hotel TOT Audit Findings by Category

## \$22,597 (10% of Revenue)



# Shade Appeal - Position

1. Hotel Management unaware that TOT applies to certain fees (pet, cancellation, upgrade, early and late departure, etc.) and therefore did not collect the taxes from guests
2. City does not make it clear what charges are subject to TOT
3. Because taxes not collected, they should not be liable for remitting taxes to the City





# Tax Administrator Review

- ▶ In considering appeal staff reviewed:
  - Municipal Code definitions for Transient Occupancy Tax
  - Past patterns of TOT collection by Shade Hotel
  - Audit results for all hotels



# Definitions – Municipal Code

## UNIFORM HOTEL/MOTEL OCCUPANCY TAX

“**Rent**’ shall mean the consideration charged, whether of not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind or nature, without any deduction therefrom whatsoever.”

“**Occupancy**’ shall mean the actual use or possession, or the right to actual use or possession of any room, or portion thereof, in any hotel for dwelling, lodging or sleeping purposes by the same individual or individuals for a consecutive period of thirty (30) days or less.”



# Definitions Applied

- ▶ Cancellation
- ▶ No Show
- ▶ Early Departure
- ▶ Late Departure
- ▶ Room Upgrade
- ▶ Pet

**Rent:** Consideration charged, whether or not received, for the occupancy of space in a hotel...

**Occupancy:** Actual use or possession, or the right to actual use or possession of any room...

Municipal Code Section 8.20.020 – Tax Imposed:

*“For the privilege of occupancy in any hotel, each transient shall be subject to and shall pay a tax in the amount of ten percent (10%) of the **rent charged by the operator.**”*



# Shade Hotel Collection Patterns - Intermittent Collection of TOT (2012-2015)

Fee	Not Collected	Collected
Room Upgrade	1/1/12 to 12/9/15	12/10/15 to 12/31/15
Early Departure	1/1/14 to 12/9/15	1/1/12 to 12/31/13 12/10/15 to 12/31/15
Pet	1/1/15 to 12/9/15	1/1/12 to 12/31/14 12/10/15 to 12/31/15
Late Departure	1/1/15 to 12/31/15	1/1/12 to 12/31/14



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# Tax Administrator Decision

- ▶ Deficient items clearly fall within the definitions in the Municipal Code as “Rent” and “Occupancy”
- ▶ Shade intermittently calculated and collected TOT on some of the deficient charges in the past indicating an understanding of TOT application
- ▶ Majority of MB hotels collecting in accordance with Uniform Hotel/Motel Occupancy Tax Ordinance
- ▶ City accepted Shade suggestion to clarify taxes with hotels
  - Recently issued new reporting tools with enhanced information



# Tax Administrator Decision

- ▶ Shade advised of TA decision via letter
- ▶ Informed of appeal rights and timing requirements if appealing to City Council
- ▶ Shade exercised its appeal rights to City Council
- ▶ All deadlines and noticing requirements met for City Council hearing



# Next Steps

- ▶ Provide Shade Hotel opportunity to provide City Council with information in appealing the Tax Administrator decision
- ▶ City Council render a decision





# Q&A

