



Legislation Text

File #: 17-0358, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Bruce Moe, Finance Director

SUBJECT:

Set a Public Hearing Date of September 19, 2017 to Discuss the Shade Hotel Appeal of Tax Administrator's Decision on Transient Occupancy Tax Due (Finance Director Moe).

SET APPEAL FOR SEPTEMBER 19, 2017

RECOMMENDATION:

Staff recommends that the City Council set Shade Hotel's appeal hearing on Transient Occupancy Tax Due for the regularly scheduled City Council meeting of September 19, 2017 at 6:00 PM.

FISCAL IMPLICATIONS:

There is no fiscal implication associated with the recommended action. The total tax due which is being appealed is \$22,597.46.

BACKGROUND:

During FY 2016-2017, the City undertook an audit of Manhattan Beach hospitality industry providers (hotels, motels) to determine if the appropriate amount of Transient Occupancy Tax (TOT) had been collected over the prior four years. One of the audit findings was that Shade Hotel was deficient in collections.

Shade does not agree with the findings, and appealed the results to the City's Tax Administrator (Finance Director), who upheld the audit findings and reaffirmed the tax due. Shade has chosen to appeal the decision to the City Council.

DISCUSSION:

Municipal Code Section 8.20 - Uniform Hotel/Motel Occupancy Tax - includes provisions for a hotel operator to appeal the Tax Administrator's decision to the City Council. The process is outlined in the following section of the code:

8.20.090 - Appeals.

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Council by filing a notice of appeal with the City

Clerk within fifteen (15) days after the service or mailing of the determination of the tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this chapter for the service of the notice of hearing. Any amount found to be due shall immediately become due and payable upon the service of the notice.

Pursuant to the code section above, the City Council shall set the time and place for the hearing. Accordingly, staff requests that the appeal be scheduled for Tuesday, September 19, 2017 at 6:00 PM during the regularly scheduled City Council meeting. Once established, the City Clerk's office will issue the required notification of appeal hearing to Shade Hotel. Shade has received preliminary information of this date and time.

The appeal process will be for City staff to present the audit information. Shade will then present their information for Council consideration. Council will then make a decision on the collection of the taxes, which shall be binding.

PUBLIC OUTREACH/INTEREST: After analysis, staff determined that public outreach was not required for this issue.

ENVIRONMENTAL REVIEW

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.