



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: November 19, 2024

Agenda Item: 11Q

Submitted By: Finance and Administrative Services

Prepared By: Brian Brower, Administrative Services Director

Subject:

CONSIDERATION OF A RESOLUTION RETURNING AN OVERPAYMENT OF BUSINESS LICENSE TAX TO VILLA SAN CLEMENTE, LLC IN THE AMOUNT OF \$87,359

Fiscal Impact:

The total amount of the overpayment was \$87,359. The City Council could direct a return of all overpaid amounts or limit the return to \$28,317 for two years of overpayment pursuant to San Clemente Municipal Code (SCMC) Section 5.04.070(D).

Summary:

On November 5, 2015, the City of San Clemente issued a business license to Villa San Clemente, LLC (VSC), owner of the Outlets at San Clemente. VSC submitted a claim for a partial return of overpaid fees based on over-reporting of gross receipts, which are used to calculate the tax. City staff finds merit in the claim, with the overpayment of the tax beginning in 2016 and continuing for seven years.

SCMC Section 5.04.070(D) provides that City staff has the authority to return overpayments for claims filed within two years of the overpayment, which would result in a return of \$28,317 in overpayments. VSC has requested a return of all tax overpaid throughout the seven-year period in the amount of \$87,359.

Background:

On its original business license application, VSC entered the business type of "Retail Outlet Shopping Center", which is not a use type specifically identified in City regulations. At that time, the license was categorized by City staff as "Property Management" under the broader category of Professional Services, and was incorrectly assigned a tax rate based on gross receipts.

Over the years, VSC entered the gross receipts for their company on their annual business license renewal application, which resulted in the City over collecting the taxes in question.

On December 1, 2023, VSC contacted the City, raising the concern that they had been overpaying based upon an incorrect business classification. City staff determined that the license classification was correct, but clarifying that the license was for an "Administrative Office", without any gross receipts attributable to the location. Therefore, the tax calculation was changed from gross receipts to the cost of operations and maintenance for the local office.

The change in tax calculation greatly reduced the total taxes due. Pursuant to SCMC Section 5.04.070(D), staff is authorized to return \$28,317 in overpayments to VSC. VSC's overpayments were \$87,359 in total.

Council Options:

- Adopt Resolution 24-189, authorizing a return of overpaid Business License Taxes to Villa San Clemente, LLC in the amount of \$87,359.
- Do not adopt Resolution 24-189, which would result in staff returning overpaid Business License Taxes to Villa San Clemente, LLC in the amount of \$28,317.
- Provide alternate direction to staff.

Environmental Review/Analysis:

This activity is not a project as defined under the California Environmental Quality Act State Guidelines, therefore, no environmental review is required.

Recommended Actions:

Staff Recommendation

Adopt Resolution 24-189, authorizing a return of overpaid Business License Taxes to Villa San Clemente, LLC in the amount of \$87,359.

Attachment:

1. Resolution 24-189

Notification:

Villa San Clemente, LLC

RESOLUTION NO. 24-189

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RETURN OF OVERPAYMENT OF BUSINESS LICENSE TAXES TO VILLA SAN CLEMENTE, LLC IN THE AMOUNT OF \$87,359

WHEREAS, Title 5 of the Municipal Code of the City of San Clemente establishes the requirement for businesses to procure a license from the City and pay a license tax in order to conduct business within the City; and

WHEREAS, the City of San Clemente issued a business license to Villa San Clemente, LLC (VSC), owner of the Outlets at San Clemente in November of 2015; and

WHEREAS, during the period from 2015 through 2023, VSC entered the gross receipts for their company on their annual business license renewal application, which resulted in the City collecting taxes on the stated amount; and

WHEREAS, VSC has demonstrated that the business location is an administrative branch office and the gross receipts previously reported on the annual renewal were not attributable to the location; and

WHEREAS, the City has modified the business license tax calculation for VSC from gross receipts to the cost of operations and maintenance for the local office, reducing the total taxes due throughout the seven-year period by \$87,359.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

Section 1. That staff is hereby authorized and directed to return all overpaid business license taxes to Villa San Clemente, LLC in the amount of \$87,359.

Section 2. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of San Clemente, California

Mayor of the City of San Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-189 was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 Elizabeth A. Mitchell, City Attorney