

Case Number:	BOA-23-10300245
Applicant:	Marcus Garza
Owner:	Nellie Garza
Council District:	2
Location:	1214 Hays Street
Legal Description:	Lot 5, Block U, NCB 1340
Zoning:	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Staff Representative:	Ashley Leal, Senior Planner

Request

An appeal of the Administrator’s decision to revoke the short-term rental permit, located at 1214 Hays Street.

Applicable Code References

Chapter 16, Article XXII

Sec. 16-1110(c)

Violation of any section of this article shall constitute an offense resulting in permit revocation in accordance with subsection 16-1111, revocation procedures.

Chapter 16, Article XXII

Sec. 16-1110(d)

Failure to timely pay any applicable hotel occupancy tax is a violation of this section, and shall result in permit revocation if arrearage is not paid within ninety (90) days of the issuance of a delinquency notice, in accordance with subsection 16-1111, revocation procedures.

Chapter 16, Article XXII

Sec. 16-1111

The director is authorized to suspend or revoke a short term rental permit issued under the provisions of this chapter wherever the permit is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building, structure, unit, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this article. In addition, if any violations have been committed and not corrected within the time specified, the director shall begin the procedures to revoke the short term rental permit in accordance with the following:

- (a) The director shall give written notice to the owner/operator regarding the revocation.*
- (b) If a short term rental permit is revoked, the owner/operator may not reapply for the same property for a period of twelve (12) months.*

Executive Summary

The applicant began operating without a Short Term Rental permit in August 2021. The subject property initially applied for a Short Term Rental (STR) permit on September 22, 2021. After review of the application, the permit to operate a Short Term Rental was approved by staff and issued on March 18, 2022.

STR operators are required to report revenues to the City's Finance Department on a monthly basis, this includes reporting \$0 revenues. Section 16-1110(d) clearly stipulates that failure to do so constitutes a violation of the chapter.

The City's Finance Department, who manage reporting and collections services for the City of San Antonio, notified the owner of the STR, via email, on January 27, 2023.

Section 16-1110(d) states that failure to timely report and pay Hotel Occupancy Tax within 90 days "shall result in permit revocation." No payment was made within the 90 days; therefore, the permit was revoked on August 2, 2023, in accordance with Sec. 16-1111 of the City's Code of Ordinances.

Estimated Hotel Occupancy Tax (HOT) Due

The City of San Antonio contracts with a third-party vendor that gathers online booking and rate data and reports that information to the City. Based upon this information, the City's Finance Department states no revenue reports have been made for August 2021 to February 2022. Finance has confirmed there were stays between August 2021 to February 2022. On August 8, 2023, after revocation, the operator reported and paid the Hotel Occupancy Tax from March 2022 to August 2023.

Code Enforcement History

No pending Code Enforcement cases.

Permit History

Short Term Rental Permit Number: STR-22-13500501

Permit Issued: Type 2

Application Submission Date: 09/22/2021

Permit Approval Date: 03/18/2022

Original Expiration Date: 03/18/2025

Date Property is Eligible for New Permit: 08/02/2024

Zoning History

The subject property is legally zoned for a Short-Term Rental. Per the ordinance Short-Term Rentals are prohibited only on properties zoned "C-3" General Commercial District, as well as all Industrial Districts.

Board of Adjustment

The Board of Adjustment is asked to determine whether staff made the correct decision in revoking the STR permit. The Board of Adjustment has the authority to review and consider the appeal, investigate facts, weigh evidence, and draw conclusions. The Board may reverse or affirm, in whole or in part, the administrative decision brought forward by the appellant and discussed in this report.

If the Board reverses Staff's decision, and approves the appeal, the owner/operator's STR permit will be reinstated until the original expiration date. The STR permit will be eligible for renewal.

Staff Recommendation

Staff recommends Denial of the applicant's request for an appeal of the Administrator's decision to revoke the Short Term Rental permit, based on the following findings of fact:

- 1) The ordinance requires that staff revoke the permit for the violation described in this report; and
- 2) The owner/operator of the Short-Term Rental permit violated the Short Term Rental ordinance by failing to timely report revenues and pay the associated Hotel Occupancy Tax payments; and
- 3) The owner/operator failed to comply with the ordinance, even after attempts were made to inform the applicants on January 27, 2023, by City staff.