



City of San Antonio

Agenda Memorandum

File Number:
{{item.tracking_number}}

Agenda Item Number: {{item.number}}

Agenda Date: February 6, 2023

In Control: Zoning Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

COUNCIL DISTRICTS IMPACTED: District 1

SUBJECT:

BOA-23-10300004: An appeal of the Administrator's decision to revoke the short-term rental permit.

SUMMARY:

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 subject property initially applied for a Short Term Rental (STR) permit on August 23, 2020. After review of the application, the permit to operate a Short Term Rental was approved by staff and issued on August 28, 2020.

STR operators are required to report revenues to the City's Finance Department on a monthly basis, this includes reporting \$0 revenues if no income was generated. Section 16-1110(d) clearly stipulates that failure to file these monthly reports, and to pay the associated Hotel Occupancy Tax (HOT), 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 mail, on the following dates. Copies of those notices are attached in this file.

Notice Number 1:

Date: August 11, 2021

Section 16-1110(d) states that failure to timely report and pay Hotel Occupancy Tax within 90 days "shall result in permit revocation." As such, staff is required to uphold the ordinance approved by City Council and revoke the STR permit.

BACKGROUND INFORMATION:

Estimated Hotel Occupancy Tax (HOT) Due

The City of San Antonio contracts with a third-party vendor called HOST Compliance. HOST Compliance gathers online booking and rate data and reports that information to the City. Based upon this information, the City's Finance Department estimates that approximately \$15,823 plus penalty and interest is owed in Hotel Occupancy Tax.

Code Enforcement History

None

Permit History

Short Term Rental Permit Number: STR-20-13500371

Application Submission Date: August 23, 2020

Permit Approval Date: August 28, 2020

Original Expiration Date: August 28, 2023

Date of Revocation: December 21, 2022

Date Property is Eligible for New Permit: December 21, 2023

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.

ISSUE:

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.

FISCAL IMPACT:

None.

ALTERNATIVES:

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.

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 STR 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 August 11, 2021 by City staff.