City of Austin

A Report to the Austin City Council

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HOTEL OCCUPANCY TAX - SHORT TERM RENTALS FOLLOW-UP AUDIT

Hotel Occupancy Tax Short Term Rentals Follow-Up Audit

March 2012

REPORT SUMMARY

In prior projects, we issued three recommendations to the Controller's Office related to registration of and tax collection for properties identified as short term rentals. The Controller's Office reported these recommendations as underway; we confirmed that two of the recommendations are underway, and one is not underway, as the Controller's Office no longer concurs with the recommendation.

AUDIT NUMBER: AU12115

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GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT TEAM

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March 2012

HOTEL OCCUPANCY TAX - SHORT TERM RENTALS FOLLOW-UP AUDIT

Audit Report Highlights

Why We Did This Audit

This audit was conducted as part of Council's Resolution No. 20120112-068, approved on January 12, 2012.

What We Recommend

We did not issue any further recommendations.

For more information on this or any of our reports, email oca_auditor@austintexas.gov

Mayor and Council,

I am pleased to present this follow-up audit on Hotel Occupancy Tax- Short Term Rentals.

BACKGROUND

On January 12, 2012, the City Council approved a resolution directing the City Auditor to complete a review of short term rentals (STRs). The resolution stated that this review should include a follow-up on previous hotel occupancy tax (HOT) projects related to short term rentals. The Office of the City Auditor (OCA) conducted two prior projects in February 2011 and June 2011.

OBJECTIVE AND SCOPE

The objectives of this audit were to determine:

- whether and to what degree the Controller's Office management implemented the recommendations issued in prior projects related to STRs, and
- the registration status and HOT collection of any previously identified deficiencies for the 33 short term rental properties reviewed for tax compliance in a previous project.

The scope is the individual steps taken by the Controller's Office since February 2011 to implement prior recommendations.

WHAT WE FOUND

We found that none of the three recommendations made in February 2011 were implemented. Two are underway, and one is not underway, as the Controller's Office no longer concurs with the recommendation.

In our review of the thirty-three short term rental properties identified for tax compliance in the previous project, we found that 79% of owners registered their properties, and 76% remitted deficiencies.

We appreciate the cooperation and assistance we received from the Controller's Office staff during this audit.

Kenneth J. Mory, City Auditor

BACKGROUND

On January 12, 2012, the City Council approved Council's Resolution No. 20120112-068 directing the City Auditor to complete a review of short term rentals. The resolution stated that this review should include a follow-up on previous hotel occupancy tax (HOT) projects related to short term rentals (STRs). On February 22, 2011, we released an audit titled "Performance Audit of the Hotel Occupancy Tax Collection - Short Term Vacation Rentals" which included three recommendations issued to Controller's Office. On June 22, 2011, we issued a report titled "Hotel Occupancy Tax Review" which included a review of thirty-three STRs to identify hotel occupancy tax revenue deficiencies.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Short Term Rental Follow-up Audit was conducted as part of Council's Resolution No. 20120112-068, approved on January 12, 2012.

Objectives

- To determine whether and to what degree the Controller's Office management implemented the recommendations issued in prior audits related to short term rentals
- To determine the registration status and HOT collection of any previously identified deficiencies for the thirty-three addresses reviewed in a previous project

Scope

The scope is the individual steps taken by the Controller's Office since February 2011 to implement prior recommendations.

Methodology

To accomplish our audit objectives, we performed the following steps:

- Conducted interviews with City staff and STR owners previously identified
- Obtained and evaluated documentation related to the implementation of recommendations
- Analyzed and evaluated HOT remittance records

AUDIT RESULTS

The February 2011 audit included three recommendations issued to the Controller's Office. Management concurred with all recommendations. These recommendations related to:

- communicating HOT information to consumers via the website,
- coordinating with other departments to identify Short Term Rentals, and
- updating and clarifying the Hotel Occupancy Tax ordinance.

The June 2011 project reported on the registration and tax collection status for thirty-three STRs that were identified during the course of work.

Finding 1: None of the three recommendations made in February 2011 were implemented; we found that two were underway, and one is not underway, as the Controller's Office no longer concurs with the recommendation.

In February 2012, the Controller's Office reported all three recommendations as underway. We confirmed that two of the recommendations are still underway, but for one recommendation, the Controller's Office no longer concurs. See Exhibit 1: Verified Status of Previous Recommendations below for additional information.

For the first recommendation, regarding communicating HOT information to consumers via the City website, the Controller's Office reported the recommendation status as underway, which we confirmed. Currently, there is no website in place to educate interested stakeholders on the City's HOT policies or procedures; however, the Controller's Office has several documents available that may be placed on the website. According to staff, the Controller's Office has not reached a final consensus on what information should be posted to the website.

The second recommendation, related to coordinating with other departments to identify STRs, was reported as underway and confirmed by our work. The Controller's Office reported that the issue of identifying STR properties was discussed with other departments; however, we were only able to obtain documentation showing collaboration between the Controller's Office and the Code Compliance Department as of February 2012.

The last recommendation, related to updating and clarifying the HOT ordinance, was reported as underway; however, the Controller's Office no longer concurs with this recommendation. The Controller's Office, in coordination with the Law Department, reported that the language in the City's ordinance follows the language in the State of Texas HOT statute for municipalities. Since some property owners reported that it was unclear that the ordinance applied to STRs, the Controller's Office has agreed to pursue education efforts through the implementation of the website, and any other means necessary, as an alternate approach. We believe this is a viable approach if properly implemented.

Exhibit 1
Verified Status of Previous Recommendations

Recommendation	Original Management Response	Controller's Reported Status	Auditors Verified Status
1. The Controller's Office should update its web site to make it easier for vacation rental by owner (VRBO) property owners to find the instructions for calculating and remitting HOT, and should work with major VRBO marketing companies to provide links to the updated website.	**Concur.** The Controller's Office will make available the Hotel Occupancy Tax forms and registration information on the Austin Finance Online website. The Controller's Office will also work with the Corporate Public Information Office to include the forms in the listing of City services on the City's main webpage. **Proposed Implementation Date: 6/30/2011**	**Underway.** The Controller's Office is in the process of developing the web content and forms. In conjunction with this, we are redefining business processes and collecting updated contact information to capture email information. **Target Date: 5/31/2012**	Underway
2. The Controller's Office should coordinate with the Code Compliance Department and Planning, Development and Review Department to implement procedures for the Controller's Office to be informed of the existence of VRBO properties.	**Concur.** The Controller's Office will work with Code Compliance Department and Planning, Development and Review Department to implement a process to notify the Controller's Office of Vacation Rental By Owner properties that are identified by these departments. **Proposed Implementation Date: 12/31/2011**	**Underway.** The Controller's Office is working with Code Compliance Department and Planning, Development and Review Department to finalize a process. All departments have been monitoring pending action on STR registration and will finalize procedures based on future Council action. **Target Date: 5/31/2012**	Underway
3. The Controller's Office should update the proposed amended HOT Ordinance to clarify that it applies to VRBO properties.	**Concur.** Although the general requirements of the draft Hotel Occupancy Tax ordinance clearly specifies that it applies to overnight stays in excess of $2, the Controller's Office will work with the Law Department to consider amending the ordinance to specify the requirement of Vacation Rental By Owners to collect and remit Hotel Occupancy Taxes to the City of Austin. **Proposed Implementation Date: 6/30/2011**	**Underway.** The Controller's Office is working with the Law Department to finalize a recommendation. **Target Date: 5/31/2012**	No longer concurs

SOURCE: OCA analysis of recommendation implementation status, March 2012

Finding 2: In our review of the thirty-three short term rental properties identified for tax compliance in the previous project, we found that 79% of owners registered their properties, and 76% of property owners remitted deficiencies.

According to City Code 11-2, individuals owe a tax of nine percent (9%) of the amount paid for sleeping accommodations that cost more than two dollars each day. The Controller's Office requests that owners register STR properties with the City.

We analyzed the thirty-three STR properties identified in the June 2011 review of registration and payment information. Previously, only fourteen of the thirty-three property owners registered with the City. As of March 2012, the number of registered property owners was twenty-six. Overall, 79% of short term rental property owners previously identified are now registered with the City.

Additionally, we found that $24,615 of the $32,496 (76%) in deficiencies identified in the previous project was collected. The remaining $7,881 is still owed by five of the thirty-three properties previously identified. We contacted the five owners, and all recognized that they have a deficiency that is owed to the City.

We provided the Controller's Office with a list of the identified STRs, but according to staff, the list provided by our office was incomplete and did not include the documentation needed by the Controller's Office to start collection efforts. As of March 2012, OCA provided a complete list, including the documentation requested by the Controller's office to begin collection efforts.

APPENDIX A

MANAGEMENT RESPONSE

MEMORANDUM

TO: Ken Mory, City Auditor

FROM: Diana Thomas, Controller DT

DATE: March 23, 2012

SUBJECT: Short Term Rental Hotel Occupancy Tax Audit Follow-up Management Response

I have reviewed the attached draft audit report. In response to the issues presented, we would like to provide the following response:

With regard to finding #1, the City's new website went live in mid-January 2012. The Controller's Office continues to finalize our website information and expect to have this information available by the end of May 2012. In addition, a process has been established with Code Compliance to identify potential STRs.

With regard to finding #2, the Controller's Office recently received information regarding the remaining $7,881 outstanding from the most recent audit and will pursue collection of these remaining amounts.

We appreciate the opportunity to provide a response. If you need additional information, please contact me at 974-1166.

CC: Elaine Hart, Interim Chief Financial Officer
Jeff Knodel, Deputy Chief Financial Officer
Carl Smart, Director, Code Compliance