



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: April 8, 2014

DATE: March 26, 2014
TO: Board of County Commissioners
FROM: Washoe County District Attorney
Paul A. Lipparelli, Assistant District Attorney

THROUGH: John Slaughter, Washoe County Manager

SUBJECT: Second reading and adoption of an ordinance amending Chapter 25 of the Washoe County Code (business licenses, permits and regulations) by amending the definition of transient lodging to apply to the rental of one or more units, and providing for other matters properly relating thereto. (All commission districts.)

SUMMARY

County code amendment to extend the transient lodging tax to individual units offered for rent for periods less than 28 days.

BACKGROUND

Washoe County Code imposes transient lodging taxes (also commonly known as room taxes) on a transient guests who include "any individual occupant who has or shall have the right of occupancy to any room for dwelling, lodging or sleeping purposes in a transient lodging facility for less than twenty-eight consecutive days." WCC 25.150. Transient lodging includes "...any facility, structure, or portion of any structure or accommodation having three or more units for rent which is occupied or intended or designed for occupancy by transient guests and real estate rental services offering three or more units for rent" WCC 25.1501 (emphasis added.) The current definition therefore does not apply to single units, like single-family homes, which may be rented for occupancy by transient guests. Rooms within a private dwelling house or other single-family dwelling unit are also exempted from taxes if the permanent or principal owner also resides in and occupies the dwelling.

In some parts of Washoe County, mostly the Lake Tahoe area, the market for the rental of single units by transient guests is active. The availability of these individual units, also called vacation rentals, is sometimes advertised in newspapers, periodicals and on the internet. In order to bring these single units within the reach of transient lodging taxes, the definition of transient lodging would have to be amended to apply to fewer than the "three or more units" as provided in the current ordinance.

The governing board of the Reno-Sparks Convention and Visitors' Authority ("RCSVA") acted to request this change be made to the Washoe County Code. The definition of transient lodging noted above includes "real estate rental services offering three or more units for rent." Therefore, units rented by real estate firms and rental management agencies are currently subject to transient lodging taxes. However, one or two units offered for rent by individual property owners are not currently subject to the tax. The RCSVA's request would bring all property owners renting one or more single units for less than 28 days within the reach of the transient lodging taxes regardless of whether the unit is offered for rent or managed by a rental management agency. Extending that tax to single units will neutralize the competitive advantage the individual unit-owners enjoy over the units managed by real estate rental services managing three or more units because everyone will pay alike.

Under NRS 237.080 (business impact statement law) before a local government adopts a rule or ordinance that impose fees that are paid "in whole or in substantial part by business", a local governing body must "make a concerted effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business." The board of county commissioners decided on March 25, 2014 the proposed change to the definition of transient lodging tax did not require a business impact statement process because transient lodging taxes are typically not paid "in whole or in substantial part" by a business.

FISCAL IMPACT

Washoe County receives 1% of the 13% transient lodging taxes collected by the RCSVA which administers the transient lodging taxes and bears the costs of administration. The new definition applying to additional units should increase the total tax collections, but Washoe County is not expected to realize a significant increase in revenues.

RECOMMENDATION

It is recommended the Board of County Commissioners: adopt an ordinance amending chapter 25 of the Washoe County Code (business licenses, permits and regulations) by amending the definition of transient lodging to apply to the rental of one or more units, and providing for other matters properly relating thereto.

POSSIBLE MOTION

I move to adopt Ordinance No. ____, an ordinance amending chapter 25 of the Washoe County Code (business licenses, permits and regulations) by amending the definition of transient lodging to apply to the rental of one or more units, and providing for other matters properly relating thereto; and

SUMMARY: An ordinance revising the definition of transient lodging.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25 OF THE WASHOE COUNTY CODE (BUSINESS LICENSES, PERMITS AND REGULATIONS) BY AMENDING THE DEFINITION OF TRANSIENT LODGING TO APPLY TO THE RENTAL OF ONE OR MORE UNITS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Chapter 25 of the Washoe County Code (Business Licenses, Permits and Regulations) is hereby amended by amending section 25.1501 which shall read as follows:

25.1501 "Transient lodging" defined. "Transient lodging" means any facility, structure, or portion thereof occupied or intended or designed for occupancy by transient guests who pay rent or other consideration for dwelling, lodging, or sleeping purposes, and includes, without limitation, any hotel, resort hotel, motel, motor court, motor lodge, bed and breakfast, lodging house, rooming house, resident hotel and motel, guest house, tourist camp, resort and "dude" ranch, cabin, condominium, timeshare properties, vacation home, apartment house, recreational vehicle park/campground, guest ranch, or other similar structure or facility, or portion thereof. The term "transient lodging" does not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, nursing home, home for aged people, foster home, or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are being detained and housed under legal restraint; and housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such educational institution, and officially recognized by it; any housing operated or used exclusively for religious, charitable or educational purposes by any organization having qualifications for exemption from property taxes under the laws of the state; any housing owned by a governmental agency and used to house its employees for governmental purposes; any room within a private dwelling house or other single-family dwelling unit if the permanent or principal owner also resides in and occupies the dwelling; any unit within a time-share project occupied by an owner, or the nonpaying guests of an owner, of a time-share in the time-share project, or in the timeshare plan of which the time-share project is a part, who has the right to use or occupy a unit, pursuant to (a) a time-share instrument or (b) a timeshare exchange program. The burden of establishing that the housing or facility is not transient lodging as defined herein shall be on the owner thereof, who shall file with the tax administrator such information as the tax administrator may require to establish and maintain

such status.

SECTION 2.

If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases, or sentences contained in the Washoe County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall be published by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Washoe County, Nevada, at least once a week for a period of two (2) weeks, and shall be in force and effect thereafter.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the ____ day of _____, 2014.

Proposed by Commissioner _____.

Passed on the ____ day of _____, 2014.

Vote:

Ayes:

Nays:

Absent:

David Humke, Chairman
Washoe County Commission

ATTEST:

County Clerk

This ordinance shall be in force and effect from and after the ____ day of _____, 2014.