

City of Hesperia

STAFF REPORT



DATE: May 6, 2025

TO: Mayor and Council Members

FROM: Rachel Molina, City Manager

BY: Nathan R. Freeman, Director of Development Services

SUBJECT: Appeal Hearing for the Revocation of Business License No. BL-50006 held by HSP Hotels, LLC

RECOMMENDED ACTION

It is recommended that the City Council conduct an appeal hearing regarding the revocation of Business License No. BL-50006, held by HSP Hotels, LLC, doing business as Holiday Inn Express ("Operator"), located at 9750 Key Point Avenue.

Following the hearing, it is further recommended that the City Council determine that the Operator is in violation of Hesperia Municipal Code Section 3.10.050 due to its failure to remit Transient Occupancy Tax ("TOT"), thereby causing financial harm to the City and its taxpayers. Based on this finding, the City Council should uphold the revocation of Business License No. BL-50006 in accordance with Hesperia Municipal Code Section 5.04.140(A)(4).

BACKGROUND

Since early 2024, the City's Finance Department and City Attorney's Office have made multiple attempts to collect unpaid TOT from the Operator, which, at the time of the notice, was \$287,970.40 of TOT, penalties, and interest dating back to November 2023.

On April 25, 2024, the City Attorney's office sent a demand letter for the Operator to remit all unpaid TOT to the City. (Attachment 1.) The Operator failed to respond. On November 14, 2024, the City Attorney's office sent another letter to the Operator of its intent to revoke the business license of the Operator (Business License No. 50006) via certified mail unless it remits all unpaid TOT to the City. (Attachment 2a and 2b.)

On January 27, 2025, the City sent a Notice of Intent to Revoke Business License No. 50006 via certified mail, citing failure to remit TOT as required by Hesperia Municipal Code Section 3.10.050. The business was given 10 days to resolve the issue prior to enforcement actions. (Attachment 3.)

On February 6, 2025, the City issued a Letter of Revocation of Business License No. 50006, also via certified mail. (Attachment 4.) The letter included information about the appeal process under Municipal Code Section 5.04.150 and notified the business about the 15-day window to file an appeal with the City Council.

An appeal letter, dated February 18, 2025, was submitted by the applicant's legal counsel, Novian & Novian, LLP, and received by the City Clerk's Office. (Attachment 5.) The appeal was deemed timely, and the matter was scheduled for an appeal hearing. (Attachment 6.)

Additionally, the City recently received a demand letter from an escrow company indicating that the hotel property may be involved in a pending sale. However, as of the writing of this report, it appears that the sale of the hotel property fell through and was not completed.

ISSUES/ANALYSIS

Under Hesperia Municipal Code Section 3.10.030, each hotel guest (transient) is subject to a 10% TOT, which must be collected by the hotel operator at the time rent is paid. The operator is responsible for both collecting and remitting this tax to the City. All hotel operators are also required to maintain relevant records for a minimum of three years to demonstrate compliance. (Attachment 7.)

According to Hesperia Municipal Code Section 5.04.140(A)(4), a business license may be revoked if the licensee commits an unlawful act while conducting business that either harms others or benefits the licensee. The City Attorney's Office has determined that failing to remit TOT constitutes a violation of the Municipal Code and results in a financial benefit to the business while causing financial harm to the City and its taxpayers.

The TOT collected from guests is revenue due to the City and is required to be remitted in a timely manner. Continued noncompliance with this obligation, despite repeated notifications and opportunities to resolve the issue, justifies the revocation of the business license.

According to records, at the time of the initial notice of the business license revocation in 2024, the Operator owed the amount of \$287,970.40, which includes the actual amounts, fees, penalties, and interest. Additionally, the City has placed three uncontested liens on the property for unpaid TOT, including fees, penalties, and interest. The following details each lien:

Document Number		Period of TOT	Amount of Lien
Lien 1	2021-00500500	October 2023	\$ 36,113.76
Lien 2	2024-0113826	November 2023 to April 2024	201,135.36
Lien 3	2024-0257753	May 2024 to August 2024	115,986.04
			\$353,235.16

On February 13, 2025, the City sent a lien notice to the Operator that would update the property lien to include TOT, with fees, penalties, and interest, from September 2024 through December 2024. The Operator appealed this notice via a TOT appeal hearing, which has yet to take place. In total, the Operator owes the City \$502,551.12 in unpaid TOT (Attachment 8). This amount includes all fees, penalties, and accrued interest of one-half of one percent per month, as dictated in Municipal Code Section 3.10.060 (D). Additionally, of the sixteen delinquent months of TOT, the City based the amount owed on ten (10) months of TOT returns filed by the Operator without payment and six (6) months of estimated returns, as the Operator did not provide TOT returns for those months.

CITY GOAL SUPPORTED BY THIS ITEM

Financial Health - Maintain a balanced budget and adequate reserves.

FISCAL IMPACT

Revocation of the subject business license will prohibit the business from reapplying for one year from the date of revocation. This action may result in the hotel's closure and could involve legal costs associated with enforcement of the revocation, should the Operator continue to conduct business. These costs may be recoverable if the City prevails in legal proceedings.

ALTERNATIVE(S)

1. In lieu of revocation, the City Council may consider alternative enforcement actions, such as a payment plan for the overdue TOT or additional penalties, based on the circumstances and the business's previous compliance history.

ATTACHMENT(S)

1. April 25, 2024 Demand Letter from City to Operator
2. (a) November 14, 2024 Letter from City to Operator and (b) Signed return receipt of certified mailing
3. January 27, 2025 Letter from City to Operator re Notice of Intent to Revoke Business License No. 50006
4. February 6, 2025 Letter from City to Operator re: Revocation of Business License No. 50006
5. February 18, 2025 Appeal Letter from Novian & Novian, LLC
6. City's Response to Appeal Letter to Operator
7. Relevant Hesperia Municipal Code Provisions (Chapter 3.10 and Chapter 5.04)
8. Estimated Unpaid TOT Amounts of Operator