

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 8/16/10  
Item No.: 13.b

Department Approval



City Manager Approval



Item Description: Consider Holiday Inn Express violations of City Code Chapter 312: Local Lodging Taxes

**BACKGROUND**

City Code Chapter 312 establishes a 3% local lodging tax on Roseville hotel room rentals. Over the past year, the Holiday Inn Express hotel has repeatedly violated the requirement under this Code to remit their lodging taxes by the 25th of each month. In addition, they have failed to pay requested penalties and interest on all delinquencies which is also prescribed under the Code.

The Council is asked to consider what steps to take against the Holiday Inn Express for these repeated violations. City Staff believes that the City has exhausted all diplomatic efforts to persuade the local hotel management to change their business practices.

Based on casual conversations with the management of the Holiday Inn Express and the timing of when local lodging taxes are eventually remitted, it seems evident that the hotel is having cash flow problems and is perhaps having difficulty meeting day-to-day obligations. It is also apparent that the hotel is commingling lodging taxes with other operating funds. In other words, they are collecting the tax at the time of checkout and instead of remitting it to the City; they are using those funds for other purposes.

After discussing the matter with the City Attorney, the most plausible next step to collect any unpaid amounts is through the legal system. The City Council could also consider temporarily waiving some of the requirements under the Code for the Holiday Inn Express. However, this could be construed as precedent setting, and it raises fairness and equity issues with all other Roseville hotels who have been remitting their lodging taxes on time.

Alternatively, the Council could request that the Roseville Visitors Association exclude the hotel from any sales referrals, advertising or promotional listings. This exclusion may be more effective than seeking recourse through the legal system.

**POLICY OBJECTIVE**

Failure to remit local lodging taxes when due is a violation of City Code. As such, the City Council should consider the appropriate action to take against the Holiday Inn Express.

30 **FINANCIAL IMPACTS**

31 Monies derived from the local lodging tax are remitted to the Roseville Visitors Association for the  
32 purposes of promoting the local hotel and hospitality industry as well as local events. The absence of  
33 expected local lodging taxes diminishes the RVA's ability to fulfill these purposes.

34 **STAFF RECOMMENDATION**

35 Not applicable.

36 **REQUESTED COUNCIL ACTION**

37 City Staff is asking the Council to consider appropriate actions against Holiday Inn Express' continued  
38 violation of City Code Chapter 312.

39 Prepared by: Chris Miller, Finance Director  
Attachments: A: July 2nd, 2010 and February 4th, 2010 correspondence to the Holiday Inn Express

40



July 2, 2010

Holiday Inn Express  
 Attn: Kathy Tomlinson  
 2715 Long Lake Road  
 Roseville, MN 55113

Dear Ms. Tomlinson,

In my letter dated February 4, 2010 (copy enclosed) you were informed of the penalties associated with any late payments of the local lodging tax. In that same letter, I outlined the City's willingness to forgo the imposition of any penalties for previous late payments in the interest of maintaining a good working relationship. It is apparent that the Holiday Inn Express does not share that same sentiment.

According to our records, on May 3, 2010 we received your February payment in the amount of \$2,926.50, and your March payment in the amount of \$3,529.59. Both of these payments were late as specified under City Code Chapter 312.10. As a result we are imposing a 10% penalty on the amount remitted as well as a 10% annual interest cost for the time period in which it was late. 10% annual interest amounts to a daily rate of 0.0274%. The penalties are calculated as follows:

February Payment

10% penalty:  $\$2,926.50 \times .10 = \$292.65$

Late period (due March 25<sup>th</sup>): 38 days

Interest (0.0274% per day):  $38 \times 0.0274\% = 1.041\%$

Interest penalty:  $\$2,926.50 \times .01041 = \$41.32$

**Total penalties and interest for February = \$333.97**

March Payment

10% penalty:  $\$3,529.59 \times .10 = \$352.96$

Late period (due April 25<sup>th</sup>): 7 days

Interest (0.0274% per day):  $7 \times 0.0274\% = .192\%$

Interest penalty:  $\$3,529.59 \times .00192 = \$6.77$

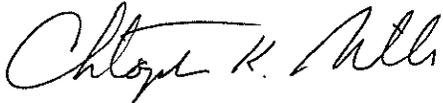
**Total penalties and interest for March = \$359.73**

With this letter we are requesting that you remit these penalties and interest with your next submission of your lodging tax. I will also take this time to remind you that the City has not received your lodging tax for April or May. Both payments are delinquent, and we will be imposing penalties and interest on those as well.

Finally, as a result of your repeated violations of City Code Chapter 312, this matter will be brought to the attention of the City Attorney and the Roseville City Council.

If you have any questions or concerns regarding the City's Lodging Tax or the imposition of these penalties and interest, please contact me at: [chris.miller@ci.roseville.mn.us](mailto:chris.miller@ci.roseville.mn.us), or by phone at: 651-792-7031.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher K. Miller". The signature is written in a cursive style with a large initial "C".

Christopher K. Miller  
Finance Director



February 4, 2010

Holiday Inn Express  
Attn: Kathy Tomlinson  
2715 Long Lake Road  
Roseville, MN 55113

Dear Ms. Tomlinson,

As you know, the City of Roseville imposes a 3% Lodging Tax that is set forth in City Code, Chapter 312. These taxes are used to promote area events and available lodging accommodations including your hotel. Lodging taxes are due by the 25th of each month based on the previous month's room rental charges. It has come to my attention that during the past year your hotel was delinquent in remitting these taxes on several occasions.

Please be aware, that City Code Chapter 312.03 reads as follows:

**312.03: COLLECTIONS:**

*Each operator shall collect the tax imposed by this chapter at the time rent is paid. The tax collections shall be held in trust by the operator for the city. The amount of tax shall be separately stated from the rent charged for the lodging. (Ord. 1200, 3-23-1998)*

In short, the lodging tax monies you receive should not be comingled with other hotel funds or used to pay for any operational costs – however temporary that may be. Inasmuch as the customer pays the tax when they check out, there is no reason that your hotel should ever be late in remitting the tax to the City.

I will also bring to your attention, City Code Chapter 312.10 which reads as follows:

**312.10: PENALTIES:**

*If any tax imposed by this chapter is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of 10% per annum from the time such tax should have been paid until it is paid. Any interest and penalty shall be added to the tax and be collected as part thereof. (Ord. 1200, 3-23-1998)*

Failure to pay the lodging tax on time will result in a 10% penalty of any unpaid amounts. This penalty along with any other unpaid lodging taxes will accrue interest at the rate of 10%

annually. I will also add that to date, the City has waived this penalty in the interest of maintaining a good working relationship. However, we are not inclined to continue doing so.

Furthermore, if you fail to remit any delinquent lodging taxes, penalties, or interest in a timely fashion, you will be in violation of this local ordinance and could be found guilty of a misdemeanor. This is spelled out in City Code, Chapter 312.13 which reads:

**312.13: VIOLATIONS:**

*Any person who shall willfully fail to make a return required by this chapter; or who shall fail to pay the tax after written demand for payment; or who shall fail to remit the taxes collected or any penalty or interest imposed by this chapter, after written demand for such payment; or who shall refuse to permit the city to examine the books, records and papers under his or her control; or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor. (Ord. 1200, 3-23-1998)*

We sincerely hope that previous delays in remitting your lodging taxes resulted from extenuating circumstances and are not indicative of your hotel's future actions in this matter.

If you have any questions or concerns regarding the City's Lodging Tax, please feel free to contact me at: [chris.miller@ci.roseville.mn.us](mailto:chris.miller@ci.roseville.mn.us), or by phone at: 651-792-7031.

Sincerely,



Christopher K. Miller  
Finance Director