

ASHEVILLE

Buncombe County Tourism Development Authority Asheville Area Chamber of Commerce

Excerpts from Board Meeting Minutes Wednesday, February 25, 2015

Present (Voting): Bob Patel, Chair, Chip Craig, John Ellis, John McKibbon, Jim Muth

Absent (Voting): Vice Chair Paula Wilber, Steve Frabitore

Present (Ex-Officio): Buncombe County Commission Vice Chair Joe Belcher
Asheville City Councilman Jan Davis

Absent (Ex-Officio): None

BC Finance: Jennifer Durrett

CVB Staff: Stephanie Brown, Marla Tambellini, Dianna Pierce, Jonna Reiff, Tom Roberson, Pat Kappes, Derek Misler

Guests: James and Susan Murray, Carolina Bed & Breakfast
Bob McMurray, Black Mountain/Swannanoa Chamber of Commerce
Blair Chamberlain, Buncombe County Finance Department

Financial Reports

Penalty Waiver Request – Carolina Bed & Breakfast

James and Susan Murray, owners of Carolina Bed & Breakfast, were in attendance to explain the circumstances surrounding the penalty waiver request they have submitted to the BCTDA for consideration. Relevant documentation was sent to the board in advance of the meeting and was also provided in the board books. The penalty, in the amount of \$201.15, was assessed by the Buncombe County Finance Department (BCF) due to the Carolina Bed & Breakfast's October 2014 occupancy tax report and remittance check being received by BCF after the due date of November 20, 2014.

Ms. Murray thanked the board for allowing her the opportunity to speak and said she and her husband purchased the Carolina Bed & Breakfast in 2009. As part of the transition process, the previous owner provided instruction on how to pay business expenses, including sales and occupancy taxes. Ms. Murray said she has followed the same process for five years without incident of placing the monthly occupancy check and form in an envelope addressed to the Buncombe County Tax Department and depositing it into the department's drop box located at 35 Woodfin Street. She typically pays the taxes about a week in advance. On November 13, Ms. Murray wrote out checks for both occupancy and sales taxes and, as usual, deposited the check for the occupancy tax in

the drop box, and mailed the sales tax check to the NC Department of Revenue. She said she later received a notice from BCF, dated December 4, indicating the payment was received on November 24, and that a penalty of \$201.15 was incurred. She said the sales tax check cleared on December 18 and she didn't understand how the occupancy tax check was recorded as being late.

Mr. Murray contacted Ms. Reiff to inquire about the process to request a waiver. After reviewing the documentation received from Carolina Bed & Breakfast and communicating between the innkeepers and BCF staff, Ms. Reiff learned that items placed in the drop box went to the Buncombe County Tax Department and had to be sent via interoffice mail to the Buncombe County Finance Department – a different department in a different building – which caused the delay. Ms. Murray said that she no longer places payments in the drop box, but instead delivers them to BCF, however, doesn't think she should be penalized since she was never instructed to do anything differently in the five years she has followed this practice. She respectfully requested that the penalty be waived.

Chairman Patel said the board has always been very reluctant to approve waiver requests in the past. A brief discussion took place centering on the details related to this request, specifically noting that the process of occupancy taxes being paid to the Buncombe County Finance Department, and not the Buncombe County Tax Department, is understandably confusing, and that since county staff never made the owners aware that the payments were being delivered to the wrong place, a waiver may be justified.

When the discussion ended, Mr. Craig made a motion to approve the request made by the owners of Carolina Bed & Breakfast to waive the \$201.15 penalty assessed by the Buncombe County Finance Department. Mr. McKibbon seconded the motion. Discussion included Chairman Patel stating he is voting against the request as he can only recall the approval of a waiver one time in the past and it was due to a death in the hotel accountant's family. A vote was then taken and passed 3 to 1 with Mr. Craig, Mr. McKibbon and Mr. Ellis voting in favor, Chairman Patel voting against, and Mr. Muth abstaining due to his professional association with the Murrys as a fellow bed and breakfast owner.

Ms. Brown reminded the board that last year, staff received notification from BCF that penalty dollars collected are now directed to schools and would no longer be retained by the BCTDA. She added staff did ask the county for an opinion about the appropriateness of the BCTDA maintaining authority over waiver requests and was subsequently directed to keep the same two-step process in place for the board to review, and forward those that are approved onto the Buncombe County Commission for final consideration. Ms. Durrett said the change resulted from a court case and affected all penalties collected by the county, not just those related to occupancy taxes. Mr. Ellis said the change had no bearing on the consideration of today's waiver request.

Ms. Durrett said she will further review internal processes to ensure staff is contacting property owners regarding situations such as this in the future. Ms. Tambellini said adding clarifying language to the website would also be helpful. Commissioner Belcher suggested adding additional signage to the Tax Department's drop box, and Mr. Muth recommended the county share a list of bullet-point guidelines with property owners to provide additional clarity regarding the remittance of occupancy taxes. Mr. McKibbon said he believed the confusion surrounding this request legitimately warranted a waiver,

adding being penalized after following the same process for five years would be discouraging to the owners, who could choose to operate their business anywhere.

The CVB staff will send the request and relevant documentation to the Buncombe County Commission for further and final consideration.

Respectfully submitted,

Jonna Reiff, Executive Coordinator

Buncombe County Tourism

December 10, 2014

Development Authority

Re: Notice of Tax Penalty

Dear Sir or Madam,

Please find enclosed a letter received today from the Buncombe County Finance Department along with four pages of supporting documents: three from the Finance department and one from me.

We own a bed and breakfast in the Montford area and always pay our occupancy tax via the drop box at 35 Woodfin Street in an envelope addressed to "Buncombe County Tax Department". The box is a simple three minute drive from our inn. We have been following this practice for five years without incident.

You will see that the Finance Department is alleging that we were late in paying the tax based on late receipt of the check and therefore are liable to pay a fine.

The Finance Department states on the first page that they received the letter on November 21st and it should have been postmarked no later than November 20th. On page two it states that they received it on November 24th.

The check itself was dated November 13th, well before the deadline, and as stated above, we always drop the occupancy tax check off at the local drop box addressed to the Tax Department.

With the assistance of Ms. Jonna Reiff at the BCTDA, it turns out that the letter was received by the Tax Department who then forwarded the letter to the Finance Department. One can see this on the second page of the supporting documentation where someone wrote "Finance" on the envelope. Apparently the Tax Department does not keep records of when they receive the payment envelopes, nor when they forwarded it to the Tax Department.

As an aside, but related matter, we also paid our sales tax to the state of North Carolina on the same day and sent it via US post. The check cleared on November 18th well before the 20th deadline. A copy and confirmation of the check is also attached.

I would appreciate it if the board would duly consider this matter and rule in our favor based on the inconsistencies in the Finance Department materials, the fact that we paid our taxes on time to the County in a manner that we have followed for five years, and the delay was

ultimately caused by the Tax Department who it appears held our check for an unreasonable period of time before forwarding it.

Yours Sincerely,

James Murray

Carolina Bed & Breakfast

177 Cumberland Avenue

Asheville, NC 28801



December 4, 2014

Chi 4 Us LLC
Carolina Bed & Breakfast
177 Cumberland Avenue
Asheville, NC 28801

Dear Sir or Madam,

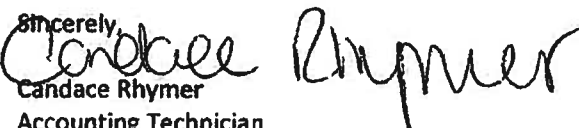
The county has received your Room Occupancy Tax report for October 2014. To be considered on time, both the payment and tax report form were required to be either postmarked or hand delivered by November 20, 2014. However, the county received both remittance report and payment for October with a postmark of November 21st, 2014. As such, your account has incurred a late penalty. The details of your account are as follows:

October (15%) Penalty Due:	\$201.15
Total Penalty Due:	\$201.15

Please remit the total due of **\$201.15** to:
Buncombe County Finance Department
PO Box 7526
Asheville, NC 28802-7526.

Please note the Buncombe County Finance Department does not have the authority to waive any occupancy tax penalties. To begin the two-step approval process, all requests for waiver must be submitted in writing to the Buncombe County Tourism Development Authority (BCTDA). If approved by the BCTDA at a regular board meeting, the request will then be presented to the Buncombe County Board of Commissioners by the BCTDA for final review and approval. You may contact the BCTDA at 828.258.6111 for more information or to begin the waiver request process.

If you have any questions or concerns, please call Jennifer Pike or Candace Rhymer at (828) 250-4130.

Sincerely,

Candace Rhymer
Accounting Technician
Enclosures

CHIAUS LLC
D/B/A CAROLINA BED BREAKFAST
177 CUMBERLAND AVE
ASHEVILLE, NC 28801-1736

1878

66-19630 NC
58775

Date Nov 13, 2014

Pay To The Order Of Buncombe County Finance \$ 1341.00

one thousand three hundred forty one and 00/100 Dollars

Bank of America

ACH R/T 053000156

For Oct 2014 Occupancy tax

⑈001878⑈ ⑆053000196⑆ 237019659037⑈

[Handwritten signature]

Buncombe County
Tax Department

Finance

Envelope

Business Advantage Chk - 9037: Account Activity Transaction Details

Check number: 00000001879

Post date: 11/18/2014

Amount: -2,414.09

Type: Check

Description: Check

CHIAUS LLC D/B/A CAROLINA BED BREAKFAST 177 CUMBERLAND AVE KNOXVILLE, NC 38001-1738	1879 NOV 18 2014
Pay to the order of <u>N.C. Department of Revenue</u>	\$ <u>2414.09</u>
<u>two thousand four hundred fourteen and 09/100</u>	
Bank of America ACHAT 11/18/2014 1117600742196071146482142013021	
1117600742196	
1117600742196	



www.ExploreAsheville.com

February 16, 2015

Mr. James Murray
Carolina Bed & Breakfast
177 Cumberland Avenue
Asheville, NC 28801

RE: Petition to Waive Occupancy Tax Penalty

Dear Mr. Murray:

The Asheville Convention & Visitors Bureau (CVB) staff is in receipt of your letter requesting a waiver of an occupancy tax penalty recently assessed by the Buncombe County Finance Department. The penalty was incurred due to the Carolina Bed & Breakfast's October 2014 occupancy tax report and remittance envelope being received by BCF after the due date of November 20, 2014.

In the first of a two-step approval process, your request will be presented to the Buncombe County Tourism Development Authority (BCTDA) at its next regular board meeting, which convenes on Wednesday, February 25, 2015, at 9:00 a.m., in the Boardroom of the Asheville Area Chamber of Commerce (36 Montford Avenue in Asheville). I encourage either you, or a representative from your inn, to personally attend the meeting to present the circumstances related to this waiver request. If you haven't already done so, please let Jonna Reiff, executive coordinator for the BCTDA/CVB, know if a representative will be in attendance. Ms. Reiff's direct line is (828)258-6111 and her e-mail address is jreiff@ExploreAsheville.com.

Thank you in advance for your response and I hope to see you at the meeting. Please feel free to contact me directly at sbrown@ExploreAsheville.com or 828.258.6104 if you have any questions in this matter.

With best regards,

Stephanie Brown, Executive Director
Asheville Convention & Visitors Bureau
For the Buncombe County Tourism Development Authority

cc: BCTDA

SB:jr



ExploreAsheville.com

February 26, 2015

Mr. & Mrs. James Murray
Carolina Bed & Breakfast
177 Cumberland Avenue
Asheville, NC 28801

RE: Petition to Waive Occupancy Tax Penalty

Dear James and Susan:

Thank you for attending the February 25, 2015 meeting of the Buncombe County Tourism Development Authority (BCTDA) to present the reason your property is requesting a waiver of the occupancy tax penalty assessed by the Buncombe County Finance Department.

As you are aware, your request was reviewed by the BCTDA at the meeting and it was recommended for your inn to receive the waiver. In the second of a two-step approval process, the request must now be presented for consideration to the Buncombe County Board of Commissioners at its Tuesday, April 7, 2015 meeting, beginning at 4:30 p.m., in Commission Chambers located at 200 College Street, Suite 326, in downtown Asheville. We will provide the necessary documentation to the county on your behalf in advance and will inform you of the commissioners' decision after the meeting. Please also note that Buncombe County Commission meetings are open to the public and you are welcome to attend.

If you have any questions in the interim, please contact Jonna Reiff at 828.258.6111 or jreiff@exploreasheville.com. Thank you.

With best regards,

Stephanie Brown, Executive Director
Asheville Convention & Visitors Bureau
For the Buncombe County Tourism Development Authority

cc: Jennifer Durrett, Candace Rhymer; Buncombe County Finance Department
Commission Vice Chair and BCTDA member Joe Belcher

SB:jr