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The Honorable Jim Holmes
The Board of Supervisors
The County of Placer
175 Fulweiler Avenue
Auburn, CA 95603

Re: Request for a temporary “stay” of the TOT determination rendered by county staff, reflected in a letter to TOT Certificate Holders, dated December 26, 2007.

Dear Chairman Holmes:

The organization I represent, the Tahoe Sierra Board of Realtors® (TSBOR), with well over 1,000 members and affiliates, has identified a number serious flaws related to the implementation of the Uniform Transient Occupancy Tax (TOT) in Eastern Placer County. Central to this concern is the manner in which staff is interpreting Article 4, Section 16, subsections 020 and 100 of the County Code. The provisions laid out in the language of the TOT Code, as revised in May of 2007, are clear enough; however, a series of actions taken by components of County staff to “implement” this ordinance appears to go well beyond the meaning and intent of the ordinance as written. The term implement is placed in quotation marks to reflect an overarching concern that staff is establishing policy rather than simply implementing it. An extensive list of questions, comments, concerns, as well as areas in desperate need of policy clarification (perhaps revision) have been catalogued by our organization. The complexity of the situation, as well as the sensitivity that should be exercised when calling a staff driven course of action into question, leads us to first seek a “stay” or rescission of the notice of determination that was rendered by the Internal Audits Division of the Placer County Auditor-Controller's Office, as reflected in their December 26, 2007, correspondence to “To All Transient Occupancy Tax Certificate Holders”. The aforementioned letter of determination regarding ‘rent’ has done significant damage to the business operations of the region’s professional property managers. Untold economic injury continues to accrue so long as this unexamined determination is allowed to stand unchecked. As the duly elected governing body with jurisdiction/oversight in matters such as these, we urge you in the strongest terms possible to execute an immediate temporary order to discontinue staff TOT audit and operations practices under the aegis of the letter cited above.

Your action to withdraw the interpretation and its associated collection practice would afford all the parties involved the time and opportunity to articulate their positioning on the many matters/issues in dispute, and the reasoning in support of these various points of view. In the interim, prior years' permissive standard of practice regarding TOT taxable events, collections, and auditing of books/records would remain in-force. We are cognizant of the budgetary struggles being faced by our County, and are aware of the important role TOT revenues play in maintaining a functional system. As such, our objective is to engage in a productive collegial dialogue, not a costly adversarial contest. To that end, once the "determination" of Dec. 26, 2007, and its associated actions have been voluntarily temporarily enjoined by the appropriate county authority, pending receipt of additional information for consideration, and is communicated as such to the TOT collections community (i.e., property managers and second home owners), then the 'heavy lifting' can be done in a series of meetings, workshops, or by an ad-hoc advisory committee, to better frame the issues in play and possible options to achieve a mutually acceptable resolution. We, like you, are interested in getting the matter heard and resolved as soon as possible. TSBOR is willing to commit the time and resources necessary to meet and confer on the issue as early and often as the county would prefer.

One additional TOT-related matter that we would very much like to see revisited involves the unanticipated shift in the issuance of TOT Certificates. In years past, professional property managers have obtained one TOT Certificate of operation to reflect all properties under contract for management of short-term "vacation rentals". If new properties were added to or deleted from a manager's inventory, the TOT Certificate would be amended to reflect this. Presently, professional property managers are being told that separate TOT Certificates must be obtained for each property under contract. Not only is this a bookkeeping nightmare for the property manager, it will present significant challenges to county auditors when looking through a given operation's records. Not to mention the fact that the majority of professional property managers with whom we have had contact inform us that their current software programs for the collection, administration, and remittance of TOT taxes are not designed for, and cannot be retooled to conform to the new individual certificate structure being imposed upon them by the county. This situation provides you with yet another example of the unanticipated consequences of a sweeping decision executed by county staff. With little-to-no warning, how are property managers to reconfigure their operation to comply in good faith with this new edict? Lacking greater warning or a phasing-in process, the simple answer is that they cannot easily conform to this new standard. Many are forced to return to the labor-intensive pencil and paper practices of decades ago, others are simply leaving the business. Logic and fairness suggest that a professional property manager should be allowed, indeed encouraged to centralize its short-term rental business under a single TOT Certificate.

The voluntary temporary 'stay' of the determination and associated collection practices, combined with a return to the single certificate option for property management professionals, would set the stage for productive talks and resolution of disagreements. This outreach from TSBOR to Placer County is intended to ensure that neither interest is left wanting at the end of the day. If you would favor us with a written reply with some indication of your intentions in regard to this matter it would be deeply appreciated.

All the best,

John R. Falk

John R. Falk, Legislative Advocate
Governmental & Public Relations Consultant
for the Tahoe Sierra Board of Realtors®

cc: Placer County 5th District Supervisor, the Honorable Bruce Kranz
Placer County Chief Executive Officer, Mr. Tom Miller