

RESOLUTION NO. 1072

CONSIDERATION, DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION NO. 1072, A RESOLUTION OF NECESSITY TO FILE A SMALL CLAIMS ACTION AGAINST DEEP, LLC DBA LUXURY INN & SUITES, 1401 N. ELM PLACE, BROKEN ARROW, OKLAHOMA 74012 FOR FAILURE TO REPORT AND PAY HOTEL OCCUPANCY TAX OWING FOR THE PERIOD OF DECEMBER 2015 THROUGH NOVEMBER 2017

WHEREAS, pursuant to Broken Arrow Code Sec. 22-112 there is levied an excise tax of four percent upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed where the rent is less than the rate of \$5.00 per day; and

WHEREAS, pursuant to Broken Arrow Code Sec. 22-115 the hotel operator is responsible for tax collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax which shall be held in trust by the operator until paid to the City; and

WHEREAS, pursuant to Broken Arrow Code 22-115(c)(1) every operator shall file with the city manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this article. Such return shall be filed within the first 15 days after the end of each such month; and

WHEREAS, DEEP, LLC dba Luxury Inn & Suites is a hotel which the public does, for consideration, obtain sleeping accommodations and along with paying rent, they pay a four percent (4%) hotel occupancy tax which is due to the City of Broken Arrow; and

WHEREAS, DEEP, LLC has been collecting said four percent (4%) tax from its renters; and

WHEREAS, for the period of time from December 2015 through November 2017 DEEP, L.L.C. has failed and refused to file a report of occupancy and of rents which is required to be reported within 15 days of the end of the month being reported according to Broken Arrow Code Sec. 22-115(c)(1); and

WHEREAS, for the period of time from December 2015 through November 2017 DEEP, LLC owes the City approximately \$12,489.68 in hotel occupancy taxes but has only paid \$7,500.00 to the City; and

WHEREAS, DEEP, LLC and Pride Hospitality are in violation of the City's ordinances with regard to reporting and paying hotel occupancy taxes; and

WHEREAS, Broken Arrow Code Sec. 22-126(d) provides that the City Manager may also authorize the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent lodging taxes, penalties and/or interest; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Broken Arrow, Oklahoma that the filing of a Small Claims action against DEEP, LLC dba Luxury Inn & Suites is a necessary action for recovery of hotel occupancy taxes owed the City.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Attorney is authorized to initiate a lawsuit to recover hotel occupancy taxes owed to the City.

This Resolution is approved in open meeting by the City Council of the City of Broken Arrow on this 19th day of December, 2017.

Mayor

Attest:

City Clerk

Approved as to form:

Assistant City Attorney