



*Town of Yountville*  
"The Heart of the Napa Valley"

July 21, 2009

**FILED**

William Trautman  
Napa Grand Jury Foreperson  
Napa County Grand Jury  
P.O. Box 5397  
Napa, California 94581

JUL 31 2009

Clerk of the Napa Superior Court  
By: C. Brennan  
Deputy

Received  
Napa Superior Court

JUL 31 2009

Court Executive Office

Dear Members of the Napa County Grand Jury:

Thank you to the members of the Grand Jury for your efforts to review and comment on the very significant local tax revenue source that TOT is to the municipalities and County here in the Napa Valley. The Town of Yountville, like the Grand Jury, does understand and value the importance of this primary revenue source to fund our community operations.

The Town has been requested to respond to recommendations 1, 2, 3, 4, 6, 8, and 9 as outlined in the report.

In addition, the Town provides the following comments related to the Grand Jury findings, specifically as follows:

1. The most recurring items of noncompliance were the lack of acceptable records and the underreporting of gross receipts by the operators.

This is likely to be the case. However, the findings do not indicate that they made this determination in the case of the Town of Yountville.

2. Not every local governmental agency provides adequate information to a new operator.

The Town records show that all operators provided timely submittals on the Town provided forms back to the Town. The Town has had a steady number of operators. The Town held an orientation session with the staff of the new operator (prior to the

Grand Jury Report) to review the ordinance and the various TOT reporting forms. The Finance Director makes periodic contact with the operators to ensure compliance.

3. There is a lack of communication between the Finance Department and the licensing departments of the local governmental agencies.

We believe this may be a mistake on the part of the Grand Jury to include Yountville in this reference as the Finance Department and licensing department here are one and the same. The Town does not have a separate licensing function.

4. Provisions in the municipal codes/ordinances for interest and penalties are not being executed.

The Town respectfully disagrees. The procedures allow for flexibility on the final determination of applicable penalties and interest and the Town believes this is appropriate as there may be mitigating circumstances. If the Grand Jury is recommending that there be no discretion in the administration of penalties and interest and that full penalties and fines be levied for any violation at all that is a different finding than the statement provisions are not being executed.

8. Most local government agencies do not have an adequate record of how many rooms are available for transient occupancy.

As this finding says "most", we are not sure if this is meant to include the Town. If this finding is meant to be applied to the Town of Yountville, the Town respectfully disagrees. The Town completes bi-monthly reporting which includes the total rooms and room nights on our reporting forms which are also posted on the Town's web-site at [www.townofyountville.com](http://www.townofyountville.com). The Town presently has 402 rooms available

The information below is from our web-site.

#### TOT Reports

THIS SECTION includes regularly updated Transient Occupancy Tax (TOT) Reports.

As of January 2009, the Town has 10 hotels and inns, with a combined total of 402 rooms. Our hotels and inns are (alphabetically):

1. **Bardessonon Inn & Spa** - 6526 Yount Street
2. **Bordeaux House** - 6600 Washington Street
3. **Lavender Inn** - 2020 Webber Street
4. **Maison Fleurie** - 6529 Yount Street
5. **Napa Valley Lodge** - 2230 Madison Street
6. **Napa Valley Railway Inn** - 6503 Washington Street
7. **Petit Logis** - 6527 Yount Street
8. **Villagio Inn & Spa** - 6481 Washington Street
9. **Vintage Inn** - 6541 Washington Street
10. **Yountville Inn** - 6462 Washington Street

Yountville's TOT rate is 12%, and revenues are collected throughout the fiscal year on a bi-monthly basis. Each TOT Report includes current and historical revenue, occupancy rate and average room-rate data for our hotel and inn rooms in aggregate. Additionally, each report includes historical data from fiscal year 1991-92 forward. The Town is not permitted to disclose such data for specific inns because it is proprietary business information.

#### **Current Report**

The following TOT Report includes the most recent reporting period for current fiscal year, as well as historical data for the preceding 17 fiscal years.

- Transient Occupancy Tax Report, March/April, 2009 (updated June 2009)

#### 9. The Cities and County do not conduct audits with any degree of frequency or regularity.

The Town notes that it was not included in this statement. If that is the case, the Town agrees with this finding as it pertains to the Town's auditing practices which are to conduct an audit a minimum of every three (3) years. It should be noted that the Town is allowed to go back three years and apply penalties and interest for a period of three (3) years so an annual audit is not necessary to ensure potential full cost recovery in the case of underreporting.

#### 10. Potential revenue from uncollected TOT, interest, and penalties in the millions of dollars is being lost throughout the county.

The Town does not know enough about the information obtained by the Grand Jury to agree with this finding. In the case of the Town we know that the uncollected TOT averages less than one percent (1%) based on the last two audits completed.

The Town response to the Grand Jury recommendations is as follows:

1. Local governmental agencies provide an operator with a copy of the local ordinance/municipal code and all forms needed to file and remit TOT.

Town does not disagree with this recommendation. The Town already takes this action, however documentation that the information is provided could be tightened and improved upon. Audit reviews though show regular compliance with and use of the Town provided forms. The Town also takes an additional step which is to schedule an orientation meeting for a new property with our staff meeting with the property management staff to review the provisions of the ordinance and the reporting forms.

This implementation has previously been recommended but the Town will send out additional copies of the applicable ordinance, various forms and a copy of the Grand Jury report by July 31, 2009 to all properties.

2. Licensing departments alert local Finance Departments when issuing new licenses to TOT applicants indicating number of rooms for transient occupancy.

The Town disagrees with this recommendation. For clarification purposes though, this recommendation does not appear germane to the Town of Yountville. The Town of Yountville Finance Department issues the business licenses, issues and processes the initial registration of TOT paperwork, manages the bi-monthly reporting and accounting for the receipt of collection of TOT payments, and coordinates the management of the TOT audit process. There is no other licensing department involved in the issue of license or permits related to TOT other than the Finance Department.

3. Local governmental agencies follow the municipal code/local ordinance in assessing penalties and interest.

The Town agrees with this recommendation, but with the understanding and recognition that it is appropriate that the process include a review and appeal process. The goal of the Town is to collect the appropriate TOT revenue in the first place and not to generate additional revenue through penalties and interest. In the Town of Yountville's experience we believe there needs to be reasonable flexibility as outlined in the municipal code to determine when to assess and collect penalties and interest. A property who submits their collection one day late with a good payment history is a very different situation from a property which is thirty days late in payment. In some cases there may be an honest misunderstanding of code applicability such as the case of a property which did not include pet surcharge revenue in the calculation of room rate. The property made payment on this additional revenue and the Town determined it was an honest misunderstanding in room revenue and not an attempt to underreport revenue or avoid payment of TOT revenue.

This recommendation will be implemented subject to the understanding that a review and appeal process is appropriate and it may be appropriate to not always assess maximum penalty provisions.

4. Tax administrator to notify Council or BOS of all past TOT, interest and penalties considered for waiver.

Town does not disagree with this recommendation. In addition, Town notes that the Finance Director currently provides detailed bi-monthly accounting reports on TOT collections which are provided to the Town Council and posted on the Town's web-site at [www.townofyountville.com](http://www.townofyountville.com). Consideration of waiver of fee's or interest would be included in such report if it was considered.

This recommendation has already been implemented and will continue to be implemented by the Town as is noted by above comments.

6. Local governmental agencies expand the municipal code to include the cost of auditing if the operator does not have adequate records.

Town does not disagree with this recommendation.

This recommendation requires further analysis and legal review by the Town prior to developing a recommendation to share with operators and the Town Council.

8. Enforce the provision in the municipal code assessing the cost of auditing to an operator who does not have adequate records.

The Town does not disagree with this recommendation but notes that this would only be applicable upon amendment of the ordinance as is outlined in recommendation number six.

This recommendation requires further analysis and legal review by the Town prior to developing a recommendation to share with operators and the Town Council.

9. Each local government improve its oversight and enforcement of the TOT.

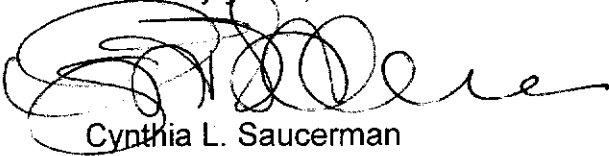
The Town neither agrees nor disagrees with this recommendation. The Town wholeheartedly agrees with what we believe to be the Grand Jury's recommendation that TOT management should be a high priority and focus. This is the case in Yountville as TOT revenue is our most significant General Fund revenue source. The Town notes that a recent audit found an additional \$12,000 owed to the Town which is less than 1% of the total amount collected by the Town (2003). The Town welcomes additional comments or recommendations on how it can improve its collection.

This recommendation has been implemented. The Town Manager and Finance Director have reviewed the Grand Jury results and recommendations and will continue to proactively manage and enforce the TOT provisions. The Town is evaluating going from a bi-monthly collection to monthly collection of TOT revenue.

We note that there are references to the Township of Yountville in the Grand Jury Report. We are uncertain where those are derived and would respectfully request that those be corrected to reflect the correct name of the municipality which is the Town of Yountville.

Please contact me if the Grand Jury has any questions or needs additional information from the Town of Yountville. Thank you for the opportunity to comment upon your report.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'C. Saucerman', with a large, circular flourish at the beginning.

Cynthia L. Saucerman  
Mayor

A handwritten signature in black ink, appearing to read 'S. Rogers', with a long, sweeping flourish extending to the right.

Steven R. Rogers  
Town Manager

Copies:      Town Council  
                  Grand Jury File