



City of Arts & Innovation

Finance Committee

TO: FINANCE COMMITTEE

DATE: MAY 14, 2025

FROM: FINANCE DEPARTMENT

WARD: 2

SUBJECT: ADMINISTRATIVE APPEAL BY ALLIANCE RIVERSIDE HOSPITALITY LLC (COURTYARD BY MARRIOTT RIVERSIDE) REGARDING TRANSIENT OCCUPANCY TAX AUDIT FINDINGS

ISSUE:

Consider the administrative appeal filed by Alliance Riverside Hospitality LLC (Courtyard by Marriott Riverside) under Section 5.32.120 of the City of Riverside's tax ordinance, contesting the audit finding that ownership complimentary rooms are taxable.

RECOMMENDATIONS:

That the Finance Committee:

1. Reaffirm that complimentary rooms are taxable under Chapter 5.32 of the Riverside Municipal Code; and
2. Deny the appeal filed by Courtyard by Marriott Riverside and direct the payment of the unpaid taxes, penalties, and interest owed for the taxable complimentary rooms.

LEGISLATIVE HISTORY:

Chapter 5.32 of the Riverside Municipal Code (RMC) governs the City's application of transient occupancy tax revenue, stating that "*For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax...*". Applicable to the appeal by the Courtyard by Marriott Riverside is Section 5.32.010 – Definitions, which states:

- *Occupancy means the use or possession, or the right or entitlement to the use or possession, of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.*
- *Rent means the amount of the consideration charged or chargeable to the tenant or person entitled to occupancy, for the occupancy of space, valued in money whether received in money, labor or otherwise, including the full value of receipts, cash, credits, property or services of any kind or nature, without any deduction whatsoever.*

BACKGROUND:

At the request of the City of Riverside, HdL Companies performed a Transient Occupancy Tax (TOT) audit of ten (10) hotels for the audit period of January 2019 through December 2021. The audits were performed remotely, with follow-up communications conducted via phone, email, and information exchanges over several months. Courtyard by Marriott Riverside was one of the hotels included in the audit.

Using data provided by the City and lodging providers, HdL conducted a comprehensive review of the monthly TOT returns filed during the audit period. This review included an analysis of the returns for accuracy, employing reasonableness tests and trend analyses based on historical data and local market trends. The overall analysis was supplemented by a detailed examination of sample periods from each year within the audit period. HdL completed the TOT Audits for the hotel properties in August 2022.

On January 10, 2024, the Financial Performance and Budget Committee considered an administrative appeal by another lodging provider in the City of Riverside. The appeal contested the TOT audit finding that complimentary rooms are taxable. The City of Riverside's recommendation to deny the lodging provider's appeal was approved unanimously, based on the Committee's determination that complimentary rooms are taxable in accordance with Chapter 5.32 of the Riverside Municipal Code.

DISCUSSION:

During the audit of Courtyard by Marriott Riverside, HdL noted that the hotel did not collect TOT on complimentary rooms, including those the operator stated were provided to ownership. The City determined that such rooms are taxable under the Riverside Municipal Code. Courtyard by Marriott Riverside has contested this finding through the administrative appeal process.

Definition and Taxability of Complimentary Rooms

Operators regularly provide rooms at no cost to customers, employees, contractors, or other guests, including ownership groups. These no-cost rooms, commonly known as "comped" or "complimentary" rooms, are typically recorded in the operator's Profit and Loss (P&L) or Monthly Operating Report (MOR) without an assigned value. However, the City of Riverside's TOT ordinance (Section 5.32.010 – Definitions) defines "Occupancy" as the use or right to use hotel rooms for dwelling, lodging, or sleeping purposes, and defines "Rent" as the amount of consideration charged or chargeable to the tenant entitled to occupancy, valued in money whether received in money, labor or otherwise.

The purpose of providing a comped room is to secure a benefit for the operator. Comped rooms are often provided to maintain guest loyalty, as barter for other services provided to the operator, for employee retention, or for ownership use, among other reasons. These types of consideration are valued in money because they provide enrichment or a benefit to the operator, even if received in a non-monetary form, and are deemed as "otherwise" under the definition of rent.

The use of a hotel room by ownership, without the payment of monetary rent, still constitutes occupancy under the City's TOT Ordinance. Ownership comped rooms provide a benefit to the owners by preserving exclusive access to the hotel's lodging facilities without payment. Such use has measurable value, regardless of whether monetary payment was exchanged. The absence

of an external guest or direct cash transaction does not eliminate the value conferred by occupancy itself.

The enforcement of Transient Occupancy Tax on complimentary rooms, including those provided to owners, is a standard and widely accepted practice among government agencies. Cities such as Ontario, Coachella, Indio, Bakersfield, Chico, Chino Hills, and Lancaster, among others, also impose TOT on comped rooms provided for any purpose, including owner use.

Courtyard by Marriott Riverside Appeal

In accordance with RMC Chapter 5.32.110 – Failure to collect and report tax—Determination of tax by Tax Administrator, the Business Tax Division initiated several conversations and email communications with representatives of Courtyard by Marriott Riverside. Courtyard by Marriott Riverside stated that the rooms in question were provided as complimentary to ownership and contend that these rooms should not be subject to taxation.

On February 25, 2025, Courtyard by Marriott Riverside submitted an administrative appeal (Attachment 2) to challenge the audit finding that ownership complimentary rooms are taxable. The operator asserts that it is not in violation of the City of Riverside's tax ordinance based on the following statements provided by the operator in a letter dated September 5, 2024:

1. "These Comp rooms have no monetary value, and they are not used for guests or services therefore we are aggrieved and are appealing to the finance division to remove the erroneous taxes and fees billed."
2. "...Since the rooms are for ownership and not for transient use, the rooms carry a \$0 dollar value, not a daily rate value, as they are not in exchange for goods, labor or services. They are not transient reserved rooms, there's no rent payment and no consideration charged, and as such hold no monetary value."
3. "There is no value for an owner/operator to pay his or herself, and since the City clearly does not have a written ordinance stating otherwise, it is our stance that no tax is due and to that extent we dispute the tax bill assessed and penalties in its entirety."

City of Riverside – Request for Documentation

Following the audit, the Business Tax Division requested supporting documentation for the ownership comped rooms through multiple conversations, as well as via an email sent on April 30, 2024. Courtyard by Marriott Riverside informed the Business Tax Division that they do not possess documentation to substantiate that the referenced comped rooms were provided to ownership. Under the Riverside Municipal Code, occupancy by ownership is not exempt from taxation; however, in the event the Committee were to find otherwise, Courtyard by Marriott Riverside has not provided documentation sufficient to substantiate that the rooms were in fact occupied by ownership.

On January 31, 2025, the City sent a letter to Courtyard by Marriott Riverside advising that the City had exhausted its review of this issue and intended to finalize the TOT audit findings. In response, Courtyard by Marriott Riverside elected to exercise its right to appeal to the Finance Committee pursuant to RMC Chapter 5.32.120 – Administrative Appeal.

City Response to Appeal

While Courtyard by Marriott Riverside did not provide documentation substantiating the purpose of the comped rooms, the Riverside Municipal Code independently provides clear guidance regarding the taxability of complimentary rooms.

HdL and the City of Riverside determined that the provision of complimentary rooms to ownership groups falls squarely within the definitions of "occupancy" and "rent" under the Riverside Municipal Code. There is no exemption in the Code for owner use, and "consideration" is broadly defined to include value received in forms other than cash. Ownership's access to hotel rooms, whether for personal use, business, or any other purpose, deprives the property of otherwise taxable, revenue-generating occupancy and thus retains a measurable monetary value.

Amount Due for Comped Rooms

Although the operator's records did not assign specific values to the ownership comped rooms, HdL applied the Average Daily Rate (ADR) for each audit year, or for the audit period as a whole, as a reasonable basis for valuation, as these values are determined by the operator. This approach ensures consistency, transparency, and fairness across all properties audited.

The exact amount due from Courtyard by Marriott Riverside for comped rooms is not disclosed in this report to preserve the confidentiality of the operator's finances. Per RMC 5.32.060 – Returns and remittances, the tax imposed "*becomes delinquent and subject to penalties if not received by the Tax Administrator on or before the fifteenth day of the month following the close of each calendar month.*" The computation of the amount is set forth in RMC 5.32.090 – Delinquency as follows:

Any operator who fails to remit any tax to the City or any amount of tax required to be collected and remitted to the City, including amounts based on determination made by the Tax Administrator under Section 5.32.110, within the time required, shall pay penalties of ten percent of the tax in addition to the tax amount due the first day on which the tax required to be collected becomes delinquent, 25 percent in addition to the tax amount due shall be imposed on the thirtieth day of delinquency, and 50 percent in addition to the tax amount due shall be imposed on the sixtieth day of delinquency. In addition, interest of one percent per month, or fraction thereof, shall be imposed from the date on which the tax required to be collected becomes delinquent until the day of payment.

STRATEGIC PLAN ALIGNMENT:

The topics included in the report support Strategic Priority 5 – High Performing Government and Goal 5.3: to Enhance communication and collaboration with community members to improve transparency, build public trust, and encourage shared decision-making.

1. **Community Trust** – The appeal process is transparent, policy-based, and includes public review to ensure accountability and fairness.
2. **Equity** – The appeal process ensures that all businesses have equal access to the process and therefore share in the benefits available to all businesses.
3. **Fiscal Responsibility** – TOT audits and accurate tax collection safeguards public funds and supports the delivery of essential City services.

4. **Innovation** – The City leverages external expertise and modern audit practices to ensure thorough and efficient tax enforcement, as well as compliance with the City's TOT ordinance.
5. **Sustainability & Resiliency** – The appeal process is in line with the continued effort to ensure businesses are in compliance with the RMC. Best practices are reviewed and implemented to ensure the highest level of compliance with City laws and regulations.

FISCAL IMPACT:

The maximum fiscal impact of the action is the amount assessed through the TOT audit on taxable comped rooms, which is not disclosed to maintain the confidentiality of Courtyard by Marriott Riverside's finances.

Prepared by:	Daniel Sanchez, Business Tax Supervisor
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Certified as to availability of funds:	Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by:	Edward Enriquez, Assistant City Manager/Chief Financial Officer/City Treasurer
Approved as to form:	Rebecca McKee-Reimbold, Interim City Attorney

Attachments:

1. Tax Administrator Correspondence
2. Courtyard by Marriott Riverside Appeal
3. Presentation