

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MATA CHORWADI, INC., D/B/A/ HOMING INN,

Petitioner,

vs.

CASE NO. 20-3711

Audit # YF-353

PALM BEACH COUNTY, TAX COLLECTOR,

Respondent.

_____ /

FINAL ORDER

On June 9, 2020, the Palm Beach County Tax Collector (“Tax Collector”) issued a Notice of Reconsideration-Final Assessment to Petitioner, advising Petitioner that it owed Tourist Development Tax under section 125.0104, Florida Statutes, along with penalties and interest.

As authorized under section 72.011(1)(a), Florida Statutes, Petitioner challenged the Final Assessment by filing a petition for administrative hearing under the applicable provisions of chapter 120, Florida Statutes. A Final Hearing was held on December 3, 2020, before Administrative Law Judge Robert Meale. The case was then transferred to Administrative Law Judge June C. McKinney (“ALJ”).

Petitioner and Respondent timely filed Proposed Recommended Orders. On May 21, 2021, the ALJ submitted her Recommended Order to the Tax Collector. A copy of the Recommended Order indicates that copies were served on counsel for the Petitioner and on counsel for the Respondent. Neither party filed exceptions to the Recommended Order, which were due by June 7, 2021. A copy of the Recommended Order is attached as Exhibit A.

After the Recommended Order was issued, Petitioner paid the remaining tax due of \$31,134.20. Penalties and interest remain due.

STATEMENT OF THE ISSUE

The Tax Collector adopts and incorporates in this Final Order the Statement of the Issue in the Recommended Order as if fully set forth herein.

PRELIMINARY STATEMENT

The Tax Collector adopts and incorporates in this Final Order the Preliminary Statement in the Recommended Order as if fully set forth herein.

STANDARDS OF REVIEW OF RECOMMENDED ORDERS

An ALJ's findings of fact cannot be rejected or modified unless, from review of the entire record, it is determined that the "findings were not based upon competent substantial evidence." § 120.57(1)(l), Fla. Stat.; *Dietz v. Fla. Unemployment Appeals Comm'n*, 634 So. 2d 272 (Fla. 4th DCA 1994). Competent, substantial evidence is "such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred" or such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957).

An ALJ, as the trier of fact, weighs the evidence, resolves conflicts, and determines the credibility of witnesses. *Maynard v. Unemployment Appeals Comm'n*, 609 So. 2d 143, 145 (Fla. 4th DCA 1993). Thus, if the record discloses any competent, substantial evidence supporting an ALJ's finding of fact in the Recommended Order, the Final Order is bound by such factual finding.

Under section 120.57(1)(l), Florida Statutes, the reviewing authority can "reject or modify conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction." When rejecting or modifying a conclusion of law, the reviewing authority must state with particularity its reason for the rejection or modification and must make a finding that the substituted conclusion of law is as or more reasonable than that

which was rejected or modified. § 120.57(1)(l), Fla. Stat.; *see also Barfield v. Dep't of Health*, 805 So. 2d 1008 (Fla. 1st DCA 2001).

FINDINGS OF FACT

The Findings of Fact set forth in the ALJ's Recommended Order are hereby adopted and are specifically incorporated by reference as if fully set forth herein.

CONCLUSIONS OF LAW

The Conclusions of Law set forth in the ALJ's Recommended Order are adopted and are specifically incorporated by reference as if fully set forth herein.

ORDERED

The Tax Collector's assessment is sustained. Petitioner, Mata Chorwadi, Inc., d/b/a Homing Inn, is directed to pay the Tax Collector's assessment consisting of \$59,134.20 of penalty; and interest, which at the time of Final Hearing was \$12,444.95, accruing at \$7.66 per day.¹

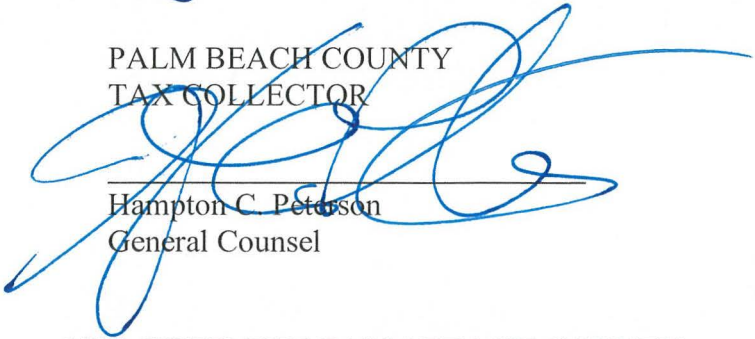
NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Palm Beach County Tax Collector, 301 North Olive Avenue, Post Office Box 3715, West Palm Beach, Florida 33402-3715, AND by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days from the date the Final Order is filed with the Tax Collector.

1. After the Recommended Order was issued, the taxpayer paid the remaining tax due from the assessment of \$31,134.20.

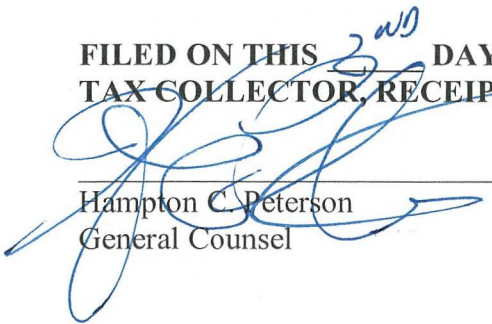
DONE AND ENTERED this 2ND day of July, 2021, in West Palm Beach, Florida.

PALM BEACH COUNTY
TAX COLLECTOR



Hampton C. Peterson
General Counsel

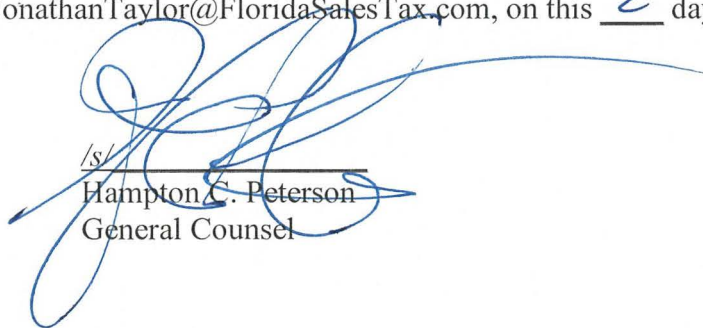
**FILED ON THIS 2ND DAY OF July, 2021, WITH THE PALM BEACH COUNTY
TAX COLLECTOR, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.**



Hampton C. Peterson
General Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that I have served a true and correct copy of the foregoing FINAL ORDER to Manshi Shah, counsel for Petitioner, by email to manshishah24@gmail.com and by U.S. Mail to 6525 Jessy Court, Lake Worth, Florida 33435; and to Rex D. Ware and Jonathan W. Taylor, counsel for Respondent, 3500 Financial Plaza, Suite 330, Tallahassee, Florida 32312, by email to RexWare@FloridaSalesTax.com and JonathanTaylor@FloridaSalesTax.com, on this 2ND day of July 2021.



/s/
Hampton C. Peterson
General Counsel

Copies furnished to:

June C. McKinney
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060