

Broward County

Legislation Details (With Text)

File #:	21-1497	Version:	1
		Status:	Agenda Ready
		In control:	County Attorney
On agenda:	9/9/2021	Final action:	9/9/2021
Title:	<p>A. MOTION TO AUTHORIZE County Administrator to negotiate and execute a settlement agreement with the online platform defendants Airbnb, Inc., Homeaway, Inc., and TripAdvisor, LLC (collectively, "Platforms"), in substantially the form of Exhibit 1, subject to review by the Office of the County Attorney as to legal sufficiency, in the actions Broward County v. Airbnb, Inc., 17th Judicial Circuit Court Case No. 19-000714 (07); Broward County v. HomeAway, Inc., et al., 17th Judicial Circuit Court Case No. 19-000715 (07); and Broward County v. TripAdvisor, LLC, 17th Judicial Circuit Court Case No. 19-000840 (07); and to authorize the County Administrator to take all associated administrative and budgetary actions to implement the settlement.</p> <p>(Per the Thursday Agenda Memorandum, the Board's consideration of Item 57 is based on the replacement Exhibit 1 distributed as Additional Material.)</p> <p>(Transferred to the Consent Agenda.)</p> <p>ACTION: (T-10:43 AM) Approved as amended with Yellow-Sheeted Additional Material, dated September 9, 2021, submitted at the request of Office of the County Attorney.</p> <p>VOTE: 7-0. Commissioner Bogen was out of the room during the vote. Commissioner Ryan was not present.</p> <p>ACTION: (T-11:13 AM) Through Mayor Geller, Commissioners Bogen and Ryan requested being shown voting in the affirmative.</p> <p>VOTE: 9-0.</p> <p>B. MOTION TO APPROVE proposed settlement program set forth in Exhibit 2 ("Settlement Program") for defendant homeowners in the above-referenced lawsuits who owe tourist development taxes or real property taxes as a result of rentals of short-term accommodations through one or more of the Platforms during the applicable time periods; and to authorize the County Administrator to take all necessary actions to implement and administer the Settlement Program, including execution of settlement agreements with homeowners consistent with the parameters set forth in the Settlement Program, implementation of a public awareness campaign to educate homeowners regarding the tax liabilities at issue and the benefits of the Settlement Program, and retention of a third-party settlement administrator, if deemed appropriate by the County Administrator, provided the total costs to the County of the third-party settlement administrator do not exceed 25% of the projected additional revenue to be paid to the County, and to take all administrative and budgetary actions necessary to effectuate such actions.</p> <p>(Per the Thursday Agenda Memorandum, the Board's consideration of Item 57 is based on the replacement Exhibit 1 distributed as Additional Material.)</p> <p>(Transferred to the Consent Agenda.)</p> <p>ACTION: (T-10:43 AM) Approved as amended with Yellow-Sheeted Additional Material, dated September 9, 2021, submitted at the request of Office of the County Attorney.</p> <p>VOTE: 7-0. Commissioner Bogen was out of the room during the vote. Commissioner Ryan was not</p>		

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VOTE: 9-0.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - Form of Settlement Agreement, 2. Exhibit 2 - Settlement Program, 3. Additional Material - Information

Date	Ver.	Action By	Action	Result
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Broward County Commission Regular Meeting

Director's Name: Andrew J. Meyers

Department: County Attorney

Information

Requested Action

A. MOTION TO AUTHORIZE County Administrator to negotiate and execute a settlement agreement with the online platform defendants Airbnb, Inc., Homeaway, Inc., and TripAdvisor, LLC (collectively, "Platforms"), in substantially the form of Exhibit 1, subject to review by the Office of the County Attorney as to legal sufficiency, in the actions *Broward County v. Airbnb, Inc.*, 17th Judicial Circuit Court Case No. 19-000714 (07); *Broward County v. HomeAway, Inc., et al.*, 17th Judicial Circuit Court Case No. 19-000715 (07); and *Broward County v. TripAdvisor, LLC*, 17th Judicial Circuit Court Case No. 19-000840 (07); and to authorize the County Administrator to take all associated administrative and budgetary actions to implement the settlement.

(Per the Thursday Agenda Memorandum, the Board's consideration of Item 57 is based on the replacement Exhibit 1 distributed as Additional Material.)

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all necessary actions to implement and administer the Settlement Program, including execution of settlement agreements with homeowners consistent with the parameters set forth in the Settlement Program, implementation of a public awareness campaign to educate homeowners regarding the tax liabilities at issue and the benefits of the Settlement Program, and retention of a third-party settlement administrator, if deemed appropriate by the County Administrator, provided the total costs to the County of the third-party settlement administrator do not exceed 25% of the projected additional revenue to be paid to the County, and to take all administrative and budgetary actions necessary to effectuate such actions.

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VOTE: 9-0.

Why Action is Necessary

Required to approve the Settlement Agreement in substantially the form attached as Exhibit 1, to approve the Settlement Program on the terms set forth in Exhibit 2, and to authorize the referenced actions.

What Action Accomplishes

Approves the Settlement Agreement in substantially the form attached as Exhibit 1, approves the Settlement Program on the terms set forth in Exhibit 2, and authorizes the referenced actions.

Is this Action Goal Related

No

Previous Action Taken

Summary Explanation/Background

The referenced litigation involves the County's attempt to collect tourist development taxes and property taxes owed as a result of short-term rentals of accommodations in Broward County transacted on the online platforms of Airbnb, Inc., Homeaway, Inc., or TripAdvisor, LLC (collectively, "Platforms"). Tourist development tax of 5% (prior to 2018) or 6% (currently) is owed on rentals of less than six months. In addition, if a homesteaded property is rented more than 30 days in each of two consecutive years, the homestead is abandoned under Florida law, back taxes (plus penalties and interest) are owed on the exempted value, and the property is subject to reassessment at current market value and loss of Save Our Homes protection.

Broward County has a current agreement with each of the Platforms for remittance of tourist development tax for short-term rentals on an ongoing basis; the referenced litigation and the proposed settlement have no effect on those existing agreements. The litigation against the Platforms regarding tourist development taxes is focused solely on the time periods prior to the effective date of those agreements.

This item would approve resolution of the litigation against the Platforms on the terms stated in the Settlement Agreement, would authorize resolution of the homeowners' tax liability at substantial discounts (up to 75% discount and waiver of penalties and interest), and would authorize County staff to take appropriate action to administer the Settlement Program, including retention of outside contractors where advisable.

Source of Additional Information

René D. Harrod, Chief Deputy County Attorney, 954-357-7600

Fiscal Impact

Fiscal Impact/Cost Summary

Not determined at this time. However, any external costs would be paid through revenue received as a result of collection of additional tourist development or property taxes.