



application of the rule, any legal action or defense seeking prepayment tax adjudication by the courts could effectively prevent the collection of taxes by creating long delays.

The City's municipal code does not include an express "pay first, litigate later" provision. Without an express provision in the City's Hotel Visitors Tax Ordinance, the City cannot be sure that a judge will apply the "pay first, litigate later" concept in judicial review of a tax assessment. Adoption of the proposed ordinance is designed to clarify that the "pay first, litigate later" rule applies to all hotel visitors tax assessments.

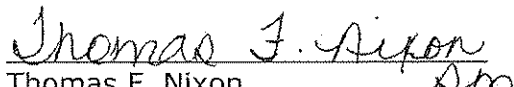
#### FINANCIAL IMPACT

The proposed ordinance will have no impact on the overall amount of revenue generated by the hotel visitors tax.

#### RECOMMENDATION

It is recommended that the City Council:

- Conduct the first reading of and introduce the ordinance adding section 3.12.145 to the Garden Grove Municipal Code to require payment of hotel visitor taxes prior to litigation of an assessment of such taxes.

  
Thomas F. Nixon  
City Attorney

Attachment: Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADDING SECTION 3.12.145 TO CHAPTER 12 OF TITLE 3 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO HOTEL VISITORS TAX

*City Attorney's Summary*

*This ordinance adds a provision to the Garden Grove Municipal Code to (1) prohibit enjoining the collection of a hotel visitors tax and (2) require that a hotel operator remit to the City the amount of a hotel visitors tax assessment prior to pursuing judicial review of the assessment.*

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** Section 3.12.145 shall be added to Chapter 12 of Title 3 of the Garden Grove Municipal Code to read as follows:

**"Section 3.12.145: Enjoining Collection Forbidden**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the city or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to this chapter and payment of all tax, interest and penalties shall be required as a condition precedent to seeking judicial review of any tax liability."

**Section 2.** If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.