

STATE OF ALABAMA
DEPARTMENT OF REVENUE,

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

§

v.

§

DOCKET NO. S. 89-146

PINE TREE TRAIL DEVELOPMENT
Route 1, Box 112-A
Bremen, AL 35033,

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Taxpayer.

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FINAL ORDER

The Revenue Department denied petitions for refund of State and Cullman County lodgings tax filed by Pine Tree Trail Development Corp. (Taxpayer) for the period June, 1988 through January, 1989. The Taxpayer, by its President Mr. Wallace McCullar, appealed to the Administrative Law Division and a hearing was scheduled for May 9, 1991. Mr. McCullar was notified of the hearing and informed the Administrative Law Division that he had sold the company to Harbour Companies, Inc. Mr. Davis was subsequently notified of the hearing but failed to appear. The hearing proceeded as scheduled with assistant counsel J. Wade Hope appearing for the Department. This Final Order is based on the evidence presented by the Department.

FINDINGS OF FACT

The Taxpayer operated Pine Tree Trail Resort during the period in issue and rented vacation suites and trailers to members and guests of the resort and also to members and affiliates of Coast to Coast Resorts. The Taxpayer charged rent of \$25.00 per day with a maximum consecutive stay of fourteen days.

The Department audited the Taxpayer for rental tax for June through November, 1988 and set up State and Cullman County tax based on the \$25.00 per night rate charged by the Taxpayer. The Taxpayer paid the tax and also reported and paid tax for the months of December, 1988 and January, 1989.

The Taxpayer subsequently petitioned for a refund of the tax for the entire period June, 1988 through January, 1989. The Taxpayer's contention is that its rental fees are not subject to lodgings tax because it rents to members only. The Department denied the petitions and the Taxpayer appealed to the Administrative Law Division.

CONCLUSIONS OF LAW

The Alabama transit occupancy tax is levied on the rental fees charged by any ". . . tourist camp, tourist cabin or any other place . . ." in which lodgings are furnished for a consideration.

See, Code of Ala. 1975, §40-26-1 et seq. However, the tax applies only if the accommodations are rented for less than thirty consecutive days.

The tax in issue was paid on the \$25.00 nightly rental fee charged on rentals for fourteen consecutive days or less. The fee fits squarely within the lodgings tax levying section. There is no exemption or exception for rental fees paid at members only clubs.

Consequently the petitions for refund were correctly denied by the Department.

This is a Final Order issued by the Commissioner of Revenue which may be appealed Pursuant to Code of Ala. 1975, §41-22-20.

Entered on June 7, 1991.

JAMES M. SIZEMORE, Commissioner