



## AGENDA REPORT

**Meeting Date:** November 20, 2012

**Item Number:** F-8

**To:** Honorable Mayor & City Council

**From:** City Attorney

**Subject:** STATEMENT OF DECISION AND FINDINGS REGARDING APPEAL OF HEARING OFFICER'S BUSINESS TAX ASSESSMENT DECISION BY SPECIALTY SURGERY CENTER, LLC, AND SPECIALTY SURGERY CENTER OF BEVERLY HILLS, L.P.

**Attachments:** 1. Statement

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### RECOMMENDATION

The Assistant City Attorney recommends that the City Council adopt the Statement of Decision and Findings regarding Appeal of Hearing Officer's Business Tax Assessment Decision by Specialty Surgery Center, LLC and Specialty Surgery Center of Beverly Hills, L.P. concluding that the Appellants business operations are not subject to tax classification "F" under the Beverly Hills Municipal Code Section 3-1-219, and reversing the Hearing Officer's June 7, 2012 decision.

### DISCUSSION

The City Council, at its October 23, 2012, held a hearing on the appeal of the Hearing Officer's business tax assessment decision filed by Specialty Surgical Center, LLC, and Specialty Surgical Center of Beverly Hills, L.P. and concluded that the Appellants' business activities do not fall within Tax Classification F, as set forth in Beverly Hills Municipal Code Section 3-1-219. A statement of decision and findings memorializing the Council's disposition of the appeal is presented for Council consideration and adoption.

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David M. Snow,  
Assistant City Attorney

# **Attachment 1**

**STATEMENT OF DECISION AND FINDINGS IN RE:  
APPEAL OF BUSINESS TAX ASSESSMENT**

APPEAL HEARING DATE    October 23, 2012

APPELLANTS:                    Specialty Surgical Center, LLC and Specialty Surgical Center of Beverly Hills, L.P.

I.        Summary of Assessment History

Taxpayers Specialty Surgical Center, LLC and Specialty Surgical Center of Beverly Hills, L.P. (hereafter collectively "Specialty") operate outpatient surgery centers in the City of Beverly Hills ("City"). The City began investigating Specialty's operations a number of years ago and has conducted numerous discussions with its counsel and employees.

Based on information Specialty provided to City staff, City staff determined that Specialty was required to register and pay business taxes in the City's Classification "F" ("Class F") for registrants "engaged in the business of leasing or renting any commercial property." (BHMC Section 3-1-219). Specialty objected to that determination.

On January 9, 2012, City staff issued an assessment for business taxes due in and for calendar years 2003 through 2011. Thereafter, an administrative hearing was requested and held, and the staff Hearing Officer issued a decision on June 7, 2012, finding, among other things, that the Appellants conducted business operations that fell within the scope of Class F. That decision was appealed to the City Council, which considered the appeal at its October 23, 2012 meeting.

Throughout the process, Specialty has denied that it is required to register in business tax Class F.

II.       Findings

The City Council of the City of Beverly Hills hereby makes the following findings and determinations:

1.       Specialty Surgical Center, LLC is conducting business in the City of Beverly Hills at 9675 Brighton Way, Suite 100, Beverly Hills, CA 90210.
2.       Specialty Surgical Center of Beverly Hills, L.P. is conducting business in the City of Beverly Hills at 8670 Wilshire Blvd., Suite 301, Beverly Hills, CA 90211.
3.       Specialty Surgical Center, LLC and Specialty Surgical Center of Beverly Hills, L.P. did not conduct business operations that fall within "Classification F: Commercial Property Renting and Leasing" as set forth in Municipal Code Section 3-1-219 during the period from 2003 through the date of this decision.

Statement of Decision and Findings  
Specialty Surgery Center, et al, Business Tax Appeal  
November 20, 2012

4. Based on the information presented to the City Council of the City of Beverly Hills, Specialty Surgical Center, LLC and Specialty Surgical Center of Beverly Hills, L.P. were not required to register in Classification F or pay business taxes required by that classification based on the business activities undertaken during the period from 2003 through the date of this decision.

Although the Appellants did not request that the Council make written findings pursuant to Beverly Hills Municipal Code Section 1-4-107, the City Council hereby makes and adopts the findings set forth above, and reverses the Hearing Officer's decision issued on June 7, 2012.

The decision of the Council shall be final and conclusive at one minute after twelve o'clock (12:01) midnight on the first day after issuance.

ADOPTED THIS 20<sup>TH</sup> DAY OF NOVEMBER 2012.

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JOHN A. MIRISH  
Vice Mayor

APPROVED AS TO FORM:



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DAVID M. SNOW  
Assistant City Attorney