

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No.: 230914401  
**ISLANDS COLLISIONS REPAIRS, INC.,** ) CDTFA Case ID: 3-322-822  
**dba Fairgrounds Collision Repair Center** )  
 )  
 )

## OPINION ON PETITION FOR REHEARING

## Representing the Parties:

For Appellant: Sanjesh Singh, Chief Executive Officer  
For Respondent: Jason Parker, Chief of Headquarters Ops

J. LAMBERT, Administrative Law Judge: On February 27, 2025, the Office of Tax Appeals (OTA) issued an Opinion in the matter of the appeal of Islands Collisions Repairs, Inc., dba Fairgrounds Collision Repair Center (appellant). The Opinion sustained respondent California Department of Tax and Fee Administration's (CDTFA's) actions denying appellant's petition for redetermination of a Notice of Determination (NOD) for tax of \$150,374, plus applicable interest, for the period April 1, 2017, through March 31, 2020.<sup>1</sup>

Appellant timely filed a petition for rehearing (PFR). Pursuant to California Code of Regulations, title 18, (Regulation) section 30604(a)(1)-(6), OTA will grant a rehearing where one of the following grounds exists and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented fair consideration of the appeal; (2) an accident or surprise, occurring during the appeal proceedings and prior to the issuance of the Opinion, which ordinary caution could not have prevented; (3) newly discovered evidence, material to the appeal, which the party could not have reasonably discovered and provided prior to issuance of the Opinion; (4) insufficient evidence to justify the Opinion; (5) the Opinion is contrary to law; or (6) an error in law in the OTA appeals hearing or proceeding.

<sup>1</sup> The NOD also included a negligence penalty, which CDTFA later removed during its internal appeals process.

Appellant's PFR does not clearly identify any of these grounds for rehearing. Instead, appellant provides new evidence with its PFR, which it asserts shows error in CDTFA's determination. A party seeking a rehearing based on newly discovered material evidence must show the following: (1) the evidence is newly discovered; (2) the party exercised reasonable diligence in discovering and producing it; and (3) the evidence materially affects the substantial rights of the party. (See *Doe v. United Air Lines, Inc.* (2008) 160 Cal.App.4th 1500, 1506.)<sup>2</sup> Evidence that was known to the party seeking rehearing before the Opinion was issued, or, by the use of reasonable diligence, might have been known and produced before the Opinion was issued, may not be regarded as newly discovered evidence. (*Horowitz v. Noble* (1978) 79 Cal.App.3d 120, 137.) Appellant has not shown that the evidence is newly discovered, nor why it could not have provided the evidence prior to the issuance of the Opinion, particularly given that the documents predate the issuance of the Opinion by a considerable amount of time. Appellant has not shown that it exercised reasonable diligence in discovering and producing the evidence. Appellant has also not shown that the estimates are material, as they are only projections, as opposed to amounts on a final invoice. As a result, appellant's evidence does not provide a ground for a rehearing.

Appellant argues that CDTFA's calculation of audited taxable sales includes nontaxable labor charges. Therefore, appellant appears to argue that there is insufficient evidence to justify the Opinion. To find that there is insufficient evidence to justify the Opinion, OTA must find, after weighing the evidence in the record, including reasonable inferences from that evidence, that OTA clearly should have reached a different opinion. (*Appeals of Swat-Fame, Inc., et al.*, 2020-OTA-045P.)

In support of adjustments to nontaxable labor, appellant provides insurance estimates and self-prepared spreadsheets with bank deposit information organized into categories such as nontaxable labor. As noted above, appellant's new evidence does not provide a ground for a rehearing and cannot be considered. Furthermore, appellant provides the same arguments in its PFR as it did during the original briefing and which were considered by OTA in its Opinion. In its Opinion, OTA stated that appellant did not provide evidence to establish any adjustments for nontaxable labor charges. OTA also stated that CDTFA made adjustments for nontaxable labor, and appellant did not show error in these calculations. In addition, as noted by CDTFA's audit report, the insurance estimates are incomplete and inconsistent with appellant's sales

---

<sup>2</sup> Since Regulation section 30604 is based on Code of Civil Procedure section 657, case law pertaining to that statute's operation constitutes relevant guidance in interpreting Regulation section 30604. (See *Appeal of Wilson Development, Inc.* (94-SBE-007) 1595 WL 1320; see also *Appeal of Do*, 2018-OTA-002P.)

reports. And as previously stated, the estimates are only projections, as opposed to amounts on a final invoice. OTA continues to find appellant's arguments unpersuasive. Therefore, appellant has not shown that there is insufficient evidence to justify the Opinion, and appellant has not established that any ground exists to warrant a rehearing. Therefore, appellant's PFR is denied.

Signed by:



Josh Lambert

CB1F7DA37831416...

Josh Lambert  
Administrative Law Judge

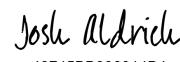
We concur:



DocuSigned by:  
Teresa A. Stanley

\_\_\_\_\_  
Teresa A. Stanley  
Administrative Law Judge

DocuSigned by:



Josh Aldrich

48745BB806914B4...

\_\_\_\_\_  
Josh Aldrich  
Administrative Law Judge

Date Issued: 9/8/2025