

Dear Santa Barbara Wineries:

Many of you may have recently seen a letter written by a former Santa Barbara winery owner about his concerns for the **Santa Barbara Wine Preserve**, currently a 2% proposed assessment (potentially 1%) on the consumer for all CA sales in the tasting rooms of Santa Barbara County, sponsored by the SB Vintners.

The letter contained some inaccurate information which we respond to below.

Santa Barbara Wine Country has been lacking funds to properly promote and politically defend itself, while many regions in California continue to out-spend and out-market us.

With the **Santa Barbara Wine Preserve**, we are trying to create long-term, sustainable funding, not borne by its Members, so that we can tell the world how great our wines are, drive more consumer traffic to the region, and advocate for our industry at the political level.

Please see below our point by point responses to the circulating letter.

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#### CONCERNS ABOUT THE VINTNERS' WINE BID PROPOSAL – 1/13/20

##### **Concern #1**

The Vintners are proposing a Wine Business Improvement District (BID) which would assess 2% on all winery Direct to Consumer (DTC) sales made to California customers. The BID must be approved by a political entity. The Vintners plan to petition the Board of Supervisors (BOS) first and then each of the eight incorporated cities. If a city does not approve the BID, the Vintners will not include that city in their marketing.

##### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- The Santa Barbara Vintners Association is sponsoring the effort to create a Wine Business Improvement District for the entire wine industry, not just its current members.
- If passed, the Santa Barbara Vintners Association will convert to a new Owners Organization representing all payors of the assessment.
- If the wine industry elects to sign a petition of 50%+ of constituents who will be assessed to pass the District, the petition is taken to the cities and the Board of Supervisors to be passed. Once an industry reaches majority consensus, the government typically approves the District based on the industry's interests.

- If the constituents of a city decided the BID is not of benefit to them, they may carve themselves out of participating in the District and not pay the assessment; therefore, they will also not receive the benefits of the funding.

### **Concern #2 - THE PETITION**

For the required 50% + 1 vote, the Vintners propose to use a weighted vote for wineries based on the wineries' DTC sales instead of one vote per winery or Alternate Producer (AP). An AP does not have a brick and mortar winery but rents space and equipment from such a winery.

### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

The voting structure is a statutory requirement of the Property and Business Improvement District law of 1994 , not a proposal created by the SB Vintners Association.

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*(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.*

- The law was designed to create a fair process for the formation of any District. Since a District can take on many structures that impact constituents in different ways, the process to form the District requires 50%+ of the impacted community to pass. In our case, some wineries may have 5% of their sales assessed, others may have 95% of their sales assessed. Thus, their vote for the creation of the assessment is based on the impact to their organization. Once the District is formed, the Board of the Owners Organization can decide if they want to perpetuate the weighted voting system, or have a one-vote-per-member system.
- For context, all the Districts we have researched have chosen a one-vote-per-member system after the formation of the new District. The Wine Institute (not a District, but an example) previously had a weighted voting system, but has reverted to a one-vote-per-winery system, as well.

### **Concern #3 - DETERMINING DTC SALES WILL BE DIFFICULT**

The Vintners cite the Hotel Industry bids, of which there are several in the county and cities, as the model for their BID. This analogy will not stand close analysis.

The Hotel Industry already pays a Tax on Transients (TOT) or bed tax. Thus, the amount of the hotel bill and number of guests are known quantities. There is no similar verifiable way to determine winery DTC sales. There are some wineries like Alma Rosa whose winery is in the county but whose tasting room is in Buellton. Thus, the Alma Rosa Buellton DTC sales must be excluded from the county petition and vice versa. Lafond presents a more complex problem

since its winery and one tasting room are in the county and its second tasting room is in the City of Santa Barbara. Carr is just the opposite with its winery and tasting room in the City of Santa Barbara and a second tasting room in the county.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- DTC sales are known by using sales tax data provided to the state. Since sales tax is confidential information, the SB Vintners hired [Civitas Advisors, the lead consulting firm in the US on BIDs](#), to work with our County. The County has individual business revenue information to calculate the petition. Sales tax information is limited to businesses within the County. We also have a list of business with multiple locations and where they are registered to conduct business sales.
- Since the Wine Preserve is proposed to be County-wide, the votes are calculated based on the % of sales that contribute to the County total, not the City; therefore, wineries with multiple locations are considered in aggregate.

#### **Concern #4 - SALES TAX RECORDS WILL NOT BE HELPFUL**

Wine sales will be reflected on state sales tax returns. However, wineries and tasting rooms sell hats, shirts, books, glasses etc., which are subject to sales tax. Similarly, sales tax is paid on wine tasting fees, wine dinners, weddings and other events for which there is an admission price. There is no easy way to segregate wine sales from sales tax returns.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- As per County mandate, unlike the hotel industry, the Wine Industry has been required to create an auditable system for its Wine Preserve so far. To do so, our assessment is proposed to be leveraged on all sales subject to California sales tax. This creates both an auditable system for the County and easier reporting for the vintner.

#### **Concern #5 - DTC SALES FIGURES SHOULD BE INDEPENDENTLY VERIFIED**

The Vintners should be required to provide an independent verification of the DTS Sales figures it submits including the DTC total for each winery in favor of the BID and each winery opposed. This could be in the form of an opinion letter from a CPA firm or some similar reliable method.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- This is one of the many reasons why the SB Vintners hired Civitas Advisors and has pursued obtaining the most accurate data. The SB Vintners will not be the party verifying the sales figures, this will be done by the County and Civitas. They are using data from the State of California, compiled by a third party ([HdL Companies](#)), which has access to the sales tax records. Therefore, we have constructed the most reliable method for collecting data. An opinion letter from a CPA without access to the data would not be reliable.

### **Concern #6 - THERE IS NO REASONED EXPLANATION FOR EXCLUDING WHOLESALE SALES**

Many small wineries are mostly DTC sales while many of the large wineries have significant wholesale sales to restaurants, hotels, grocery chains, wine shops and country clubs.

The Vintners have always marketed to the trade. There is a trade section on the Vintners' website. The Vintners' spring and harvest festivals include events for the trade. Several times the Vintners have organized visits to our wine country for Sommeliers from throughout the US. Yet the vintners have not explained why they are excluding wholesale sales.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- Solving the SB County Wine Industry's funding problems to pursue the protection and promotion of our industry is a multi-year process to tap funding sources that support different needs.
- SB Wine Preserve Assessment: Wholesale sales were considered initially when the SB Wine Preserve structure was designed. It was rejected because the margins on wholesale are significantly smaller, the competition significantly stronger and the costs would be borne by the producer or distributor and not the consumer. This took us to consider DTC sales, where the assessment can be passed along to the consumer and the margins are much larger. The public is also familiar with assessments like this via hotel stays and rental cars, and therefore was not a new concept foreign to them. The SB Wine Preserve is the most efficient path to providing reliable, stable income to the wine industry.
- SB Wine Preserve funding is eligible to fund government advocacy work – ordinance creation, public policy, political relationships – as well as marketing efforts. Due to this, we opted to pursue the SB Wine Preserve first. The Grape Commission below restricts how funds can be spent.
- Grape Commission: Another potential source of income would be a Grape Commission. This would place a commission on the sale of grapes – payable by the buyer – and would fund marketing, research and development of the Wine and Grape Industry. The funds are not eligible to fund any advocacy activities. We do agree that there is some logic to exploring this option as a future funding source but the process is far more complex due to its legal passage at Sacramento, would take far more time and ultimately more resources than this current organization could support. We firmly believe that if the SB Wine Preserve does pass, we would certainly have the funds and manpower to pursue this effort at the state level if the new SB Wine County organization felt it made sense to do, and the State would allow us to separate from SLO and Ventura Counties, which are currently in our Grape Commission district.

### **Concern # 7 - USING DTC SALES IS UNFAIR TO SOME WINERIES AND A WINDFALL TO OTHER WINERIES**

A current member of the Vintners pays mid around \$5,000 in dues. Because of their price point and high percentage of DTC the 2% assessment will result in a yearly charge of \$96,000 or 6% of the \$1.6M raised by the Bid. Another county winery's tasting rooms are in Southern California outside of the BID. They will pay no assessment while benefitting from the BID's marketing to Southern California.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- The BID assessment would replace annual association dues. Therefore, in the example above, the winery would pay the assessment as a pass-through collected 100% from the consumer. They would have a net decrease in costs of their annual dues.
- One of the goals of the SB Vintners has been to determine a path to increase funding for the wine industry while decreasing costs to the Vintner itself. The Santa Barbara Wine Preserve assessment achieves this.
- Finally, the assessment funds must be spent to benefit the businesses and business locations within the district, which is Santa Barbara County. Increasing the recognition and reputation of Santa Barbara County wines and locale is the purpose. If a winery is out of county, then they would be exempt from this assessment.

### **Concern #8 - OUT OF COUNTY WINERIES WILL NOT PAY THEIR FAIR SHARE**

About 50% of county grapes are shipped to wineries outside the county. These wineries often use the Santa Barbara County designation or one of the county's six AVAs. These wineries do not have tasting rooms in the county or cities and will not be assessed the 2% fee while benefiting from the marketing of Santa Barbara Wines.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- Please see the explanation of the Grape Commission above for a possible funding structure that will include the sale of grapes.
- Much of the 50% of county grapes are not label designated as coming from Santa Barbara County and are blended into California appellation wines

### **Concern #9 - VINEYARD OWNERS SHOULD PAY THEIR FAIR SHARE**

A successful marketing of Santa Barbara County wines and its AVAs should increase demand and recognition. In the long term this should increase demand for SBC grapes which will benefit the vineyard owners. Yet, like out of county wineries, vineyard owners will not be paying their fair share.

### Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve

- Please see the explanation of the Grape Commission above for a possible funding structure that will include the sale of grapes.

### **Concern #10 - THE \$327,000 FOR OPERATIONS IS NOT EXPLAINED**

The \$327,000 for Operations is a quantum leap from current and historical practice. There is no detailed explanation on what or how this extraordinary amount will be spent.

### Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve

- The Operations budget was estimated based on actual costs to run the current Vintners Association. This amount funds three staff positions (CEO, Director of Membership, Office Manager), plus office space, financial management (including third-party management of assessment audits and payments), and all other business costs (insurance, contractors, technology, software, phone, etc.).

### **Concern #11 - FORCING WINERIES WHO HAVE ELECTED NOT TO JOIN THE VINTNERS TO PAY A 2% FEE ON DTC SALES MAY VIOLATE THEIR FIRST AMENDMENT RIGHT OF ASSOCIATION.**

There are several wineries, some of which were founded by winemaker pioneers who put Santa Barbara wines on the map, who have decided not to join the Vintners apparently because they do not believe they receive value for their dues. There are other wineries who have refused to join the Vintners because of the Vintners political positions such as opposing Hoop Houses which would have put the Berry Farmers and Tomato Farmers like Tutti Frutti out of business. The First Amendment Right of Association includes the right not to associate with an organization. The government should not force such wineries to pay a fee to support an organization which they do not want to join.

### Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve

- No BID districts have ever been legally challenged on this issue. Again, this initiative is being sponsored by the Vintners Association on behalf of the entire Wine Industry. The association will convert to an Owners Organization, which will be run by payors of the assessment.
- The assessment will not go into place without a majority vote of the assessed industry.
- The SB Vintners has had some institutional history of not providing a great value for their Members' dues. This poor performance helps explain why we are in a funding crisis today and why Santa Barbara Wine does not have the prominent awareness that it should. There is currently a very engaged Board of Directors made up of some of the smartest people in our industry that is trying to change the dynamic so that we are able to achieve what its Members want. To help with this, we brought in Alison Laslett as CEO two years ago to guide us in turning around our nonprofit.

- The Board of Directors has studied every financial option to increase our budgets and we collectively agreed that creating the **2% Santa Barbara Wine Preserve** (now possibly 1%) was the most logical, easiest to enact and common sense approach of our all options. It will forever change Santa Barbara Wine in the eyes of the consumer and our ability to protect our interests.
- The Vintners Association did not oppose hoop houses over food crops; rather, it sought some regulation over cannabis.

**Point # 12 - ENFORCEMENT BY SUING DELINQUENT WINERIES IS DIVISIVE**

The Vintners concede that if a winery is delinquent in paying its 2% fee, that the Vintners will sue the winery in small claims or superior court. The wine business is cyclical, and many winery owners have experienced shortfalls in revenue and difficulty in making payroll and other expenses. A fee of 2% on DTC sales may be the difference between a positive and negative balance sheet for some wineries.

**Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- Again, the Vintners Association will no longer exist in its current form. The Owners Organization exists as a result of the funding generated by the assessment. The assessment is a direct pass-through collected from the consumer; this is how 99% of the hotels operate their BID. It works just like the California quarterly sales taxes any business typically pays. Therefore, paying the assessment does not impact payroll and other expenses.
- If the Owners Organization does not receive fees from the assessed vintner, they may collect by filing suit. The Palm Springs JPA has filed a suit against a hotel for not paying the assessment. This is obviously not ideal, but the business was required to pay and did not. As mentioned, all the businesses will be notified in advance of the assessment so they can, if they elect, pass the assessment on to the consumer so that it does not negatively impact the winery's bottom line.

**Concern #13 - THE BID SHOULD BE CONDITIONED ON APPROVAL BY THE COUNTY AND ALL CITIES**

It is unfair to assess county wineries a 2% fee on DTC sales if one or more of the cities deny approval and allow their wineries a 2% price advantage over county wineries on DTC sales.

**Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- The wineries paying the assessment will receive the benefits of the assessment. If a city denies approval to their city, the wineries will not pay and they will not receive the benefits.

#### **Concern #14 - PRIVACY**

The Vintners' Wine Bid proposal does not provide for the protection of the privacy rights of the wineries who will be compelled to submit sensitive economic information.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- Individual business revenue information IS absolutely confidential. A collection agency (County or CPA) is contracted to manage the sensitive sales tax data. The Owners Organization will not know the individual business revenue. A portion of the funding goes to this third-party management.

#### **Concern #15 - THERE ARE OTHER ALTERNATIVES**

The Vintners are correct that the budgets of the wine associations of Sonoma, Napa and SLO are three to 14 times greater than the Vintners. None of those wine associations' robust budgets are due to a BID. Sonoma and Napa raise their robust budgets by wine auctions which are voluntary and collegial.

The Willamette Valley Wineries Assoc., which is about as old as the Vintners, raises annually \$2.2M from the following:

Membership/Partnership Dues-\$350K

Trade -only annual auction - \$1.1M

Oregon Pinot Camp -\$400K

Cooperative Marketing Programs and Products-\$300K Grants-\$50K

This \$2.2 M budget supports a team of 5, including PR agencies, social/digital marketing contractor and project/graphic designer.

#### **Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

- Every wine region supports its association using a different structure. There is no one-size-fits-all. Some regions have an appetite for an auction with years of experience behind them, others have won multiple grants, and still others have robust support from association members and businesses, or even tourism dollars. But all of them are different.
- Santa Barbara County has not succeeded in finding reliable, sustainable funding that will consistently benefit the industry. The Wine Preserve effort is an attempt to solve our unique problems.
- The Willamette Valley charges their members \$6000/Member to be involved with Oregon Pinot Noir Camp, which is similar to our Mission SB, which has typically charged \$900. We do not have a Vintner population or a business population used to supporting an association on the level of other regions.



**Point #16 - WINERIES OPPOSED TO THE VINTNERS' WINE BID**

IN THE COUNTY

Andrew Murray

Babcock

Baehner Fournier

Beckman

Carr- 1 Tasting room in county- winery & 2nd tasting room in S.B. Curran

Kendal Jackson

Solminer

Spear

IN A CITY

Liquid Farm

Longoria, Loring Pali Seasmoke

Vineyard Owners and Others Adam Firestone

Brooks Firestone Clos Pepe Vineyards Michael Benedict

**Response by SB Vintners Committee Responsible for Santa Barbara Wine Preserve**

Here are some of the Wineries IN SUPPORT of the Santa Barbara Wine Preserve:

Alma Rosa

Bien Nacido Vineyards

Buttonwood

Dierberg

Epiphany Cellars

Fess Parker

Foxen Vineyard & Winery

Hitching Post Wines

Jonata

Lafond

Lieu-Dit

Margerum Wine Company

Melville Vineyards & Winery

Pence Vineyards & Winery

Presqu'ile Winery

Riverbench

Saarloos & Sons

Santa Barbara Winery

Star Lane

Tercero

The Hilt

Tyler

Zaca Mesa