

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

568
JD 22-14



FROM: Executive Office

SUBMITTAL DATE:
September 2, 2016

SUBJECT: Response to the 2015-2016 Grand Jury Report Regarding Riverside County Code Enforcement; All Districts; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve with or without modification, the attached responses to the 2015-2016 Grand Jury report regarding Riverside County Code Enforcement; and,
2. Direct the Clerk of the Board to immediately forward the Board's finalized responses to the Grand Jury, to the Presiding Judge, and to the County-Clerk Recorder (for mandatory filing with the State).

BACKGROUND:

Summary

Section 933(c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to matters under the control of the Board and that a response be provided to the Presiding Judge of the Superior Court within 90 days.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	N/A	N/A	N/A	N/A
NET COUNTY COST	N/A	N/A	N/A	N/A
SOURCE OF FUNDS:			Budget Adjustment:	
			For Fiscal Year:	

C.E.O. RECOMMENDATION: Approve

**RESPONSE TO
2015-2016 GRAND JURY REPORT
Riverside County Code Enforcement Department**

Following is the response to the above referenced Grand Jury Report.

Finding No. 1:

Length of Time to Resolve Code Enforcement Cases

Riverside County Code Enforcement cases take an inordinate length of time to resolve. The multi-year time frames typical to conclude code enforcement cases adversely affect the citizens of Riverside County who rely on Code Enforcement to timely correct offensive and dangerous property problems in their neighborhoods and commercial districts. As pointed out in two successive audits by the Riverside County Auditor- Controller's office, the long delays also prevent Riverside County from timely collecting outstanding fines and fees. Investigations extended without legitimate cause ultimately result in unreasonable cost recovery charges being assessed to property owners. Testimony by line supervisors revealed the fact that they also carried an enforcement caseload, which inhibits their supervisory obligations.

Response: Respondent partially agrees with the finding.

The Department's goal is to achieve voluntary compliance whenever possible and minimize the need for the County to abate the violation. Compliance is typically achieved by working with the property owner on a timeline for compliance. Each complaint investigated by Code Enforcement has unique, fact-specific circumstances that drive the reasonableness of the time period spent to achieve compliance.

The Department agrees that there is a need to provide a more timely compliance schedule on cases when it becomes clear, early in the investigation, that voluntary compliance will not be achieved. The Department is moving in the direction of having Supervising Code Enforcement Officers significantly reduce their work on individual cases and shift their time to increased oversight, as well as having Senior Code Enforcement Officers reduce their caseloads so as to assist the line-level Code Enforcement Officers with more timely case resolution.

Finding No. 2:

Inability to Have Erroneous Fines Refunded

There is no policy or procedure in place to return fines previously paid when a property owner is exonerated of any violation of county ordinances.

Response: Respondent partially agrees with the finding.

Although the Department does not have a specific policy in place, the Department does issue refunds when appropriate. As explained below, it has been the standard practice of the Department to refund fees collected from administrative citations whenever these citations are dismissed by a hearing officer as a result of a timely appeal.

Government Code section 25845 allows counties to, by ordinance, establish a procedure for the abatement of public nuisances, as well as a method for cost recovery. As the Grand Jury points out, Ordinance No. 725 sets forth the County's nuisance abatement and cost recovery process. It should be noted that there are three distinct hearing processes contained in Ordinance No. 725 ("Ordinance"):

1. Abatement Hearing - A hearing regarding the violation itself during which the property owner may show cause as to why the conditions on the property are not in violation of County ordinances and should not be abated as set forth in Section 6 of Ordinance.
2. Statement of Abatement Cost (SOAC) Hearing - A hearing regarding the Statement of Abatement Costs at which a property owner may contest the reasonableness of the abatement costs as set forth in Section 7 of the Ordinance.
3. Appeal of Administrative Citations Hearing - A hearing regarding the appeal of administrative citations and penalties at which a property owner may contest that no violation exists and that no administrative penalty (citation) should be imposed or that the administrative penalty (citation) should be in a different amount as set forth in Section 8 of the Ordinance.

As set forth above, Section 8 of the Ordinance, details the appeal hearing process by which a property owner may challenge the issuance of an administrative citation by asserting that no violation exists or that the citation amount is incorrect. If the hearing officer determines at the appeal hearing that the citation was invalid, it is the Department's standard practice to refund the administrative citation amounts if such amounts were paid prior to the appeal hearing consistent with the Ordinance.

With regard to the hearings referenced in numbers 1 and 2 above, property owners do not typically pay SOAC costs prior to those hearings as the purpose of those hearings is to allow the property owners to challenge the issuance of an abatement order or the SOAC costs, respectively. That said, Code supervisory staff have increased their level of review of cases before SOAC invoices are sent out to remove any abatement costs charges that may not be appropriate. The County Counsel's Office may also periodically review cases for appropriateness of billing of abatement costs.

Finding No. 3:

Barriers to Citizen Complaints Regarding Code Enforcement Personnel

Code Enforcement has no policy, procedure, complaint forms, complaint logs, or anything else to enable that department to follow the directives of Board Policy Number A-56 to adequately address citizen complaints and inquiries.

Response: Respondent partially agrees with the finding.

Although the Department does not have a specific policy, complaint log, or form to log citizen complaints, it has been the Department's practice to refer complaints regarding Code Enforcement personnel to the personnel's immediate supervisor or through the chain of command in an effort to resolve the matter. This is consistent with Board of Supervisors Policy A-56, which states that "a log entry is not required if the issue can be resolved during the first direct contact with the person making the complaint or inquiry or if the item is referred to a person who can resolve the question." In those cases where a complaint is not addressed to the satisfaction of the reporting party by first-line supervision, the complaint is brought to the attention of Department Management who attempt to resolve the matter.

Finding No. 4:

Perception of Interference by Board of Supervisors in Code Cases

Interference by the County Board of Supervisors in Code Enforcement cases adversely affects personnel throughout the Department. It is difficult to determine how much of the Supervisors' involvement coincides with their mandate to represent constituents in their districts and how much may be improper patronage. Regardless, interference affects the morale and alters the chain of command of the Code Enforcement Department, as stated by several witnesses.

Response: Respondent disagrees with the finding.

As the directly elected representatives of the public, Board Supervisors are expected to respond to their constituents' concerns. It is not inappropriate for a staff member of a Board Supervisor to assist a constituent with a code enforcement issue.

It is not inappropriate for Board staff to inquire as to the status of these cases involving their constituents. Some Code Enforcement cases are complex in nature, such as cases involving unpermitted land uses or structures. Achieving compliance in those cases may require coordination and discussions between multiple departments and it is not inappropriate to involve Board staff in those discussions so that Board staff is aware of the status of the case and Board staff can also inform County departments of information received from their constituent. Direction on the appropriate level of enforcement and the pace of it depending on progress being made in good faith, should come from Code Enforcement Management staff and with advice from the County Counsel's Office, as necessary and appropriate.

Finding No. 5:

Unsupported Billing in Code Enforcement Cases

Unsupported and inaccurate billing of property owners by Code Enforcement is common, causing either overbilling or under billing of fines and labor charges assessed as part of cost recovery directed in Ordinance 725. Code Enforcement Management is not catching and correcting these errors but is processing the billing

regardless of errors.

Response: Respondent partially agrees with the finding.

The Department disagrees that unsupported and inaccurate billings are common. Over the years, cost recovery efforts have involved multiple database and time reporting systems and there has been a need to manually match data across multiple systems which does increase the potential for error. The Department has taken the steps to reduce errors by ensuring that case information is recorded appropriately and accurately in the current records management system by the officers and tracking both cases status and time spent enforcing the case within one system, therefore eliminating altogether the need for separate entries in multiple systems. The Department agrees it is appropriate to significantly reduce individual caseloads from Code Enforcement Supervisors to line staff so as to allow the Code Enforcement Supervisors more time to perform oversight and quality control, and has already taken steps to do so.

Finding No. 6:

Disparate Treatment of Grand Jury Complaints

The complaining employee in this matter was treated differently than all other county employee witnesses. This gives the appearance that complaints to the Grand Jury carry less importance or validity than other complaints made under County Policies C-35 and C-25. The complainant also told the Grand Jury that, since the complainant was ordered to use vacation time for appearances, it appeared that supervisors and upper management were trying to dissuade the complainant from giving testimony at a proceeding authorized by law, in violation of Penal Code §136.1(a)(2).

Response: Respondent disagrees with the finding.

The Department complies with all applicable policies, laws and regulations. As it relates to this particular finding, this concerns a confidential personnel matter. Consequently, the Department is legally precluded from providing any further information or response.

RECOMMENDATIONS

**Riverside County Code Enforcement Department
Riverside County Board of Supervisors**

Recommendation No. 1:

Riverside County Code Enforcement review its procedures and practices with the intention of reducing time spent resolving code and ordinance violations to an average of 12 to 18 months. Crucial to this end is improved communication, with the public and better oversight of CEO's caseloads by Supervising and Senior CEOs. Supervisors be relieved of heavy caseloads so they can properly supervise the activities

of field staff. Decision-makers also seriously consider options such as court resolution of cases that have been used successfully by other jurisdictions.

Response: Respondent agrees with the recommendation.

The Department agrees that twelve to eighteen months to complete Code cases is an appropriate target timeline. However, a longer or shorter time may be warranted depending upon the facts of the case. Senior Code Enforcement Officers and Supervising Code Enforcement Officers are carrying caseloads. The Department agrees that this has impacted their ability to appropriately supervise line-level Code Enforcement Officers. The Department is moving in the direction of significantly reducing Supervising Code Enforcement Officers work on individual cases and shifting their time to increased oversight, as well as reducing Senior Code Enforcement Officers individual caseloads to assist the line-level Code officers with resolution of the more complex cases. With such reductions in handling caseloads, the Department will also be examining its priorities and core functions and looking to implement practices in order to bring quicker resolution to the majority of cases. The Department intends to fill a vacant Division Manager position to oversee field operations to increase management-level support.

Code Enforcement staff is also working closely with the County Counsel's Office to increase the use of the court process to resolve certain complex cases more expeditiously through the use of judicial tools such as nuisance abatement actions, injunctions, and receiverships, where appropriate.

It is the Department's goal to provide the public with excellent customer service. As such, good communication is essential between the Department and all parties in resolving code violations.

The Department is in the process of reviewing our Policies and Procedures and working with the County Counsel's Office to update them where appropriate.

As part of the case close-out process, the Department will also be considering the use of a third-party collection agency to reduce the time spent on the collections process.

Recommendation No. 2:

Riverside County Code Enforcement should amend its policies and procedures manual to provide for refunding fines and fees to property owners when Code Enforcement discovers that an error has been made and the property owner is exonerated of the violations alleged in the case. If doubt exists as to the property owner's guilt or innocence, the matter should be reviewed by the County Hearing Officer for a decision. The Hearing Officer has the delegated authority and powers of the Board of Supervisors to conduct Administrative Hearings. The Hearing Officer should also be given authority to order the refund of administrative fines when property owners are exonerated.

Response: Respondent partially agrees with the recommendation.

As set forth above, the Department is in the process of reviewing our Policies and

Procedures and working with the County Counsel's Office to update them where appropriate. The Department agrees that it should develop a specific policy and procedure for refunding fines and fees previously paid when an error has been made or the property owner is exonerated of the violations alleged in the case.

Ordinance No. 725 ("Ordinance") contains the following three distinct hearing processes:

1. Abatement Hearing - A hearing regarding the violation itself during which the property owner may show cause as to why the conditions on the property are not in violation of County ordinances and should not be abated as set forth in Section 6 of Ordinance.
2. Statement of Abatement Cost (SOAC) Hearing - A hearing regarding the Statement of Abatement Costs (SOAC) at which a property owner may contest the reasonableness of the abatement costs as set forth in Section 7 of the Ordinance.
3. Appeal of Administrative Citations Hearing - A hearing regarding the appeal of administrative citations and penalties at which a property owner may contest that no violation exists and that no administrative penalty (citation) should be imposed or that the administrative penalty (citation) should be in a different amount as set forth in Section 8 of the Ordinance.

It is important to note that the hearing officer's decision-making role in each of the above hearings is different per the Ordinance. At the time of the hearing in number 1 above, it is the Board of Supervisors' role, or the hearing officer's role if so delegated, to determine whether or not there has been a violation of the County ordinance and whether an abatement order should be issued. At the time of the hearing in number 2, it is the hearing officer's role to determine the reasonableness of the abatement costs. It is not the hearing officer's role to determine whether or not a violation of the County ordinance has occurred at the time of the SOAC hearing. That violation determination was previously made during a separate hearing where the property owner had the right to be heard under Section 6 of Ordinance No. 725. Therefore, the Department disagrees that the hearing officer should decide upon the property owner's guilt or innocence at the time of the SOAC hearing and that recommendation will not be implemented.

Further, Section 8 of the Ordinance details the appeal hearing process described in number 3 above by which a property owner may challenge the issuance of an administrative citation by asserting that no violation exists or that the citation amount is incorrect. If the hearing officer determines at the appeal hearing that the citation was invalid, it is the Department's standard practice to refund the administrative citation amounts if such amounts were paid prior to the appeal hearing.

In the last several months, the Department has instituted a procedure for enhanced administrative and legal review of cases prior to the SOAC hearing and has made corrections whenever errors have been found in the SOAC invoice, either prior to or at the hearing. The Department has begun the process of revising its policies and procedures to mandate the review of all SOAC invoices by a Supervising Code Enforcement Officer prior to SOAC invoices being mailed to the property owner. Errors found during the review process will be corrected prior to mailing. Additionally, any errors found in an SOAC invoice after the invoice has been mailed to the property owner will be corrected by

the Department and not left to the hearing officer to make adjustments at the SOAC hearing.

Recommendation No. 3:

Code Enforcement take immediate steps to comply with all directives and provisions of Board Policy Number A-56 and amend the Code Enforcement Policies and Procedures manual appropriately. Create a citizen complaint form with copies available to the public at District Offices, the Administrative Office, and on the department website.

Response: Respondent agrees with the recommendation.

The Department is in the process of reviewing its policies and procedures and will revise or develop an appropriate policy and procedure to keep a complaint log for unresolved complaints in conformance with Board of Supervisors Policy A-56.

Recommendation No. 4:

To ensure fairness to all residents, prevent accusations of favoritism, and to improve employee morale, the relationship between the Board of Supervisors and Code Enforcement should be kept at arm's length as far as enforcement of county ordinances is concerned. County Supervisors will, of course, listen to their constituents' complaints and concerns regarding Code Enforcement, but should then either direct those constituents to the Code Official or have the Code Official contact and assist the constituents toward compliance and cooperation.

Response: Respondent partially agrees with the recommendation.

As the directly elected representatives of the public, Board Supervisors are expected to respond to their constituents' concerns. It is not inappropriate for a staff member of a Board Supervisor to assist a constituent with a code enforcement issue.

It is not inappropriate for Board staff to inquire as to the status of these cases involving their constituents. Some Code Enforcement cases are complex in nature, such as those involving unpermitted land uses or structures. Achieving compliance in those cases may require coordination and discussions between multiple departments and it is not inappropriate to involve Board staff in those discussions so that Board staff is aware of the status of the case and Board staff can also inform Code staff of information that they have received from their constituent. Direction on the appropriate level of enforcement, and the pace of it depending on progress being made in good faith, should, and does, come from Code Enforcement Management staff and with advice from the County Counsel's Office as necessary and appropriate.

Recommendation No. 5:

The responsibility for errors on Code cases primarily rests with the CEO handling the case. However, every action on every field report should be reviewed by the

Supervising Code Enforcement Officer overseeing the CEO.

The Code Official and upper management should eliminate unsupported billing and other errors for the benefit of the residents of Riverside County. Errors need to be caught and corrected early at the field level. Supervising Code Enforcement Officers in each District should be required to oversee the daily activities of their CEOs for compliance with policies and laws. Code supervisors should also be required to review and approve all reports written by their CEOs before they are sent to Code Enforcement Administration for billing.

Response: Respondent partially agrees with the recommendation.

The Department agrees that the Supervising Code Enforcement Officers at the field office have the responsibility of reviewing case files once the files are resolved prior to forwarding the files to Administration for cost recovery. As stated above, the Department is moving in the direction of having Supervising Code Enforcement Officers not work on individual cases and shift their time to increased oversight, and having Senior Code Enforcement Officers reduce their case load to assist the line-level Code officers with resolution with the more complex cases. However, it is not reasonable to expect that every action on every field report be reviewed by the Supervising Code Enforcement Officer. This would lead to an inability to process and resolve cases in an efficient manner. Supervising Code Enforcement Officers are tasked with many duties including coordination of staff enforcement activities, interaction with constituents when necessary to resolve issues, staff training, interaction with other County Departments and enforcement Agencies, and setting a standard of practice within the field office that is consistent with the Department's overall direction. Nevertheless, the Department is in the process of reviewing our Policies and Procedures and if warranted, will revise or develop the appropriate Policy and Procedure.

Recommendation No. 6:

Appropriate steps should be taken to prevent disparate and unlawful treatment of county employees who file complaints with the Riverside County Civil Grand Jury. Board policies C-35 and C-25 make it clear that retribution against whistleblowers will not be tolerated. That resolve to be strengthened and expanded to include retaliation against whistleblowers who complain to the Grand Jury.

Response: Respondent partially agrees with the recommendation.

Respondent agrees that Board of Supervisors Policies C-25 and C-35 are important and that all actions should be taken to ensure compliance with all applicable policies, laws and regulations. Further, state and federal laws specifically address retaliation against employees who make complaints. As such, no further action is warranted.

Report Issued: 06/21/2016
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Response Due: 09/19/2016