LESLIE FITZGERALD
ASSISTANT CITY ATTORNEY

MICHELLE GARLAND
ASSISTANT CITY ATTORNEY

ISABEL VICTORIA IGNACIO
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

HEATHER FERBERT
CITY ATTORNEY

CIVIL ADVISORY DIVISION
1200 THIRD AVENUE, SUITE 1100
SAN DIEGO, CALIFORNIA 92101-4100
TELEPHONE (619) 533-5800

MEMORANDUM OF LAW

DATE: November 12, 2026

TO: Members of the Audit Committee

FROM: City Attorney

SUBJECT: Code Enforcement Authority for Code Violations on City-owned Land

INTRODUCTION

On September 2, 2026, the City of San Diego's Audit Committee discussed the City Auditor's Hotline Report of the City's Lease with Barnes Tennis Center (Report). According to the Report, the Office of the City Auditor received a fraud hotline complaint about illegal grading and unpermitted parking use on an undeveloped area of the Barnes Tennis Center's leasehold with the City. The Report stated that the City's Building and Land Use Enforcement Division inspected the Barnes Tennis Center and identified numerous code violations at the property.[1] However, the Report said that despite the code violations found at the Barnes Tennis Center, the City did not enforce at the property.[2] During the Audit Committee's discussion of the Report, Councilmember Moreno asked the Office of the City Attorney to provide written authority addressing "who has the authority to issue a [code] violation on City-owned land." This memorandum responds to that question.

QUESTION PRESENTED

Who has authority to issue a code enforcement violation on City-owned land?

[1] The current lease with the Barnes Tennis Center states "that in the event the lessee defaults 'in the performance of any covenant or condition' of the lease, and fails to 'immediately' and 'diligently' pursue a cure of the default to completion, the City may 'immediately terminate' the lease." OCA Hotline Report No. OCA-27-01, p. 20 (Aug. 2026).

[2] This Office understands the City has taken further action against the Barnes Tennis Center since the Report was issued as the City recently issued a memorandum outlining enforcement efforts at the Barnes Tennis Center on November 6, 2026.

ANALYSIS

San Diego Municipal Code (Municipal Code or SDMC) sections 12.0102 and 121.0202 outline the enforcement authority for violations of the San Diego Land Development Code[3] (Land Development Code) and other state codes and regulations applicable to the development and use of property. Municipal Code section 12.0102 provides enforcement authority and power to the City Manager, the City Clerk, or any of their designated Enforcement Officials "to gain compliance with the provisions of the Municipal Code and applicable state codes." SDMC § 12.0102. "Enforcement Official" is defined as "any person authorized to enforce violations of the Municipal Code or applicable state codes, including the City Treasurer." SDMC § 11.0210. As it applies to the alleged code violations at the Barnes Tennis Center, Enforcement Official includes inspectors from the Development Services Department's Building and Land Use Enforcement Division. To enforce code violations, an Enforcement Official has the power to issue Notices of Violation and field citations, inspect public and private property, and use judicial and administrative remedies as available under the Municipal Code. SDMC § 12.0102.

Additionally, Municipal Code section 121.0202 provides further enforcement authority to the City Manager and Enforcement Official "to promulgate policies and regulations reasonably necessary to implement the intent and provisions of the Land Development Code including all provisions of the Building, Electrical, Plumbing, Mechanical, Residential Building, and Green Building Regulations." SDMC § 121.0202. In addition to all the enforcement remedies provided in Municipal Code section 12.0102, the City Manager or Code Enforcement Official may also seek criminal or civil injunctive relief and civil penalties in the Superior Court[4], seek administrative remedies as provided in Municipal Code Chapter 1, or order reasonable restoration of a property to its lawful condition. SDMC §§ 121.0311-121.0312.

[3] Municipal Code Chapters 11, 12, 13, and 14 are collectively known as, and referred to as, the Land Development Code. SDMC § 111.0101(a).

[4] The City Attorney would file any such actions on behalf of the City as the City's "chief legal adviser" and City prosecutor. San Diego Charter § 40.

In conclusion, based on the Municipal Code, the City Manager, the City Clerk, or a designated Code Enforcement Official has the authority to address code violations on City-owned property. Whether to enforce a Municipal Code violation on leased City property, or use other available enforcement means, such as a lease, permit, or other agreement, to gain compliance, is ultimately a policy decision.

HEATHER FERBERT, CITY ATTORNEY

By */s/ Isabel Victoria Ignacio*
Isabel Victoria Ignacio
Deputy City Attorney

IVI:at
ML-2026-1
Doc. No. 4556782
cc: Joe LaCava, Council President
Kent Lee, Council President Pro Tem
Jennifer Campbell, Councilmember
Stephen Whitburn, Councilmember
Marni von Wilpert, Councilmember
Raul Campillo, Councilmember
Sean Elo-Rivera, Councilmember
Todd Gloria, Mayor
Andy Hanau, City Auditor
Bethany Bezak, Chief Operating Officer
Casey Smith, Chief Housing and Community Development Officer
Elyse Lowe, Development Services Department Director