



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 4, 2007 REPORT NO: 07-059
ATTENTION: Committee on Land Use and Housing
Agenda of April 11, 2007
SUBJECT: Development Services Department, Neighborhood Code Compliance
Division Cost Recovery Information Report.
REFERENCE: N/A

REQUESTED ACTION: This is an information item only. No action is required on the part of the Committee or the City Council.

STAFF RECOMMENDATION: Accept the Report.

SUMMARY:

Recent BPR efforts in the Development Services Department identified opportunities for Neighborhood Code Compliance Division (NCCD) to make operational changes that will result in timely compliance while becoming more cost efficient. One of these opportunities is the use of Civil Penalties to achieve timely compliance while recovering administrative and investigative costs.

NCCD is primarily funded by the General Fund. Some special enforcement programs are funded by CDBG funds, CCDC and SEDC contracts. While there are fines in place and the Administrative Citation Fines were recently increased, the actual amount of fines collected remain low when compared to NCCD's operational costs. Approximately \$184,000 were collected in fines during FY-07 and up to \$88,000 during this fiscal year. NCCD has been working on the identification of cost recovery tools to offset its operational costs.

The Sacramento Model

NCCD and Environmental Services Department (ESD) recently reviewed the City of Sacramento which operates a recoverable code enforcement program. In 2001, Sacramento retained a consultant to study the cost of providing code enforcement services and to evaluate cost recovery for fee related activities. Last fiscal year, Sacramento's Code Enforcement Program collected approximately \$8 million dollars in code enforcement fees. The City of Sacramento Municipal Code includes a "Nuisance Code" that declares a multitude of regulations including: zoning, building code, fire code, housing code, waste, litter, debris, weeds, trash, graffiti, abandoned vehicles and vacant properties a "Public Nuisance".

Sacramento resolves most code enforcement cases via a "Notice and Order to Abate Public Nuisance". Under this procedure, Sacramento staff performs the following: identify the violation or nuisance condition; issue a Notice and Order of Abatement to eliminate the nuisance; proceed to abate the nuisance if the owner does not comply; conduct a cost confirmation hearing to recover abatement costs; and add a "Service Fee" per every Notice and Order issued. This procedure is accomplished in accordance with the Government Code Section 66041 and California Health and Safety Code 17910 et seq. and provides for recovery of all costs incurred by a municipality in order to abate the nuisance.

The San Diego Model

City Council Policy No. 900-10 "A Comprehensive Code Enforcement Program and Policy" adopted in 1991 (Attachment 1) outlines an array of code enforcement remedies to achieve compliance timely and effectively. These remedies include: Administrative Citation, Notice of Violation, Notice and Order of Abatement, Civil Penalties Notice and Order, Recordation of Notice and Notice and Order of Summary Abatement. NCCD uses one or more of the above mentioned remedies to bring properties into compliance, including the imposition of monetary and other penalties when appropriate.

The San Diego model narrowly defines those conditions which constitute a "public nuisance" in comparison with the Sacramento model which declares all violations a public nuisance. San Diego uses a "Notice and Order of Abatement" primarily for health and safety hazards, such as unsafe structures or dangerous conditions including vacant unsecured structures or lead hazards.

Civil Penalties

In 1993, San Diego adopted a Civil Penalties remedy via Ordinance 17956. This remedy provides for the City's recovery of all administrative and investigative costs, in addition to the imposition of a fine or civil penalty for a violation and for each day the violation exists. NCCD uses the Administrative Civil Penalty provision of the Municipal Code Section 12.0801 et seq. via the issuance of a "Civil Penalty Notice and Order".

NCCD and ESD are expanding the use of a Civil Penalties Notice and Order in lieu of a Notice of Violation. In most cases, the Civil Penalty only applies if the owner does not correct the violation within the specified time frame, typically 30-60 days. Therefore, NCCD and ESD expect the Civil Penalties Notice and Order to serve as an incentive for property owners to comply in a timely manner in order to avoid such penalties. This notice is not appealable, however, if the responsible party wishes to have the hearing held prior to the required date for compliance, NCCD schedules the hearing. NCCD may use Civil Penalties for repeat violators, when work is performed without permits, violations of approved discretionary permits, encroachments into dedicated open space and park land and/or lack of containment of spray paint as required in the graffiti ordinance.

The selection of the "Civil Penalties Notice and Order" at the beginning of the enforcement process will send a stronger enforcement message. The investigators remain empowered to select any remedy that results in faster compliance and acts as a deterrent for future violations combined with reduced timelines when appropriate. Other remedies previously discussed will continue to be available to staff and will be used as appropriate, including prosecution by the City Attorney's Office, Code Enforcement Unit.

CONCLUSION:

We have reassessed our enforcement tools, priorities (attached) and processes (flow chart attached). This shift in enforcement strategy does not result in additional fees or taxes. This shift focuses on recovery of costs to continue to fund basic code enforcement core services provided to constituents. Currently, there are minimal financial consequences for violators; this will focus on the recovery of costs and provide for financial consequences for individuals who maintain code violations, thus transferring the burden on the violator rather than the taxpayers.

Sacramento achieved its current cost recovery level over a 15 year period. NCCD believes this is an additional step to becoming more cost recoverable. We will evaluate the effectiveness of our efforts and report to this Committee in 6 months. The next step would be to determine the recoverable costs associated with issuing Notice of Violations.

The City of San Diego will continue to be a model for code enforcement and operate similarly to municipalities like Ontario, Glendale and Long Beach who are recognized in the code enforcement field for their use of a wide variety of administrative and judicial code enforcement remedies and their ability to recover costs while operating in partnership with neighborhoods.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

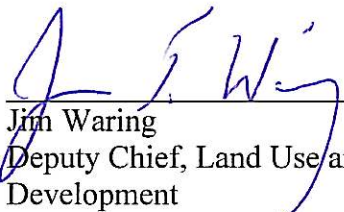
KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

The intent of this shift is to increase NCCD's operational efficiency and ability to recover investigate and administrative costs. Code enforcement efforts will remain reasonable, fair and flexible when based on specific case circumstances across the City.

Projected impacts include the possibility that NCCD staff may spend more time at Civil Penalties Appeal Hearings and less time on field investigations, however NCCD expects to resolve cases quicker. City Treasurer's staff may possibly have an increase in the number of collection accounts.



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Attachments:

1. Comprehensive Code Enforcement Council Policy 900-10
2. Priorities
3. Flow Chart