



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 11, 2007 REPORT NO: 07-158
ATTENTION: Committee on Land Use and Housing
Agenda of Oct. 17, 2007
SUBJECT: Update and Expansion of the Administrative Citation Pilot Program
REFERENCES: Reports 07-048 and 06-180

REQUESTED ACTION:

Consider whether the Administrative Citation Pilot Program should be expanded citywide.

STAFF RECOMMENDATION:

Expand the Administrative Citation Pilot Program citywide.

SUMMARY:

The Administrative Citation Pilot Program was initiated jointly by the San Diego Police Department Mid City Division and Development Services Department on April 30, 2007, as a 6-month trial program to address nuisance behavior at identified party houses in the College Area. The program encourages landlords to become more involved in the management of their properties by holding tenants and property owners accountable for neighborhood disturbances. Citations (\$1000) may be issued to each tenant involved in the disturbance violation, and to property owners in cases where prior warning has been given (i.e. CAPP designation). The program has been an effective enforcement tool for police officers responding to disturbance calls since citations may be delivered personally, or posted on the door where officers are denied access. The data collected to date supports expansion of the Administrative Citation Program citywide, which will require hiring and training additional staff. Since the program was initiated, 75 administrative citations have been issued including 70 tenant citations and 5 property owner citations. Of the 32 properties that were issued citations, three were previously designated CAPP properties and two properties were added to the CAPP database as a result of prior activity and repeat administrative citations during the pilot program.

Background

The Administrative Citation Pilot Program was developed as an additional enforcement tool in response to complaints about the “mini dorm” problem in the College Area. Mini dorms are not defined in the Land Development Code or California Building Code, but the term is commonly used by members of the community to describe single dwelling units occupied by multiple adult tenants, which have been identified as a threat to communities due to a variety of negative impacts (i.e. loud parties, noise, trash, parking impacts). While this type of living arrangement exists citywide, the majority of disturbance and loud party calls registered with the police are concentrated in the neighborhoods surrounding San Diego State University. The College Area accounted for 27 percent of the total disturbance related calls received by the Mid City Division during the period from January 2006 through August 2007 (2,404 calls out of 9,020).

On September 19, 2006, Council District seven hosted a mini-dorm community forum in the College Area where staff from Development Services, Police, and City Attorney listened to concerns related to mini dorms and fielded a variety of questions from the community. Since that time, the Mayor and Council have been working to develop solutions to address mini dorms and restore peace in local residential neighborhoods. A multi-faceted strategy has been adopted to address mini dorms that includes 1) a more aggressive enforcement program, 2) greater cost recovery, 3) code amendments to address inconsistent physical development, 4) and other options such as the Residential High Occupancy Permit and Rooming House Ordinance. When coupled with the existing Administrative Remedies Ordinance and the Community Assisted Party Program (CAPP) described below, the Administrative Citation Pilot Program has proven to be a critical component of the City’s strategy for a more aggressive code compliance program, while also providing for recovery of enforcement costs.

Administrative Remedies

Fines were recently increased in an effort to recover costs for repeat disturbance violations through a more aggressive code compliance program. Prior to adoption of the Administrative Enforcement Remedies Ordinance (O-19579) in February 2007, the City’s administrative remedies had last been updated in 1990. The ordinance increased the City’s penalty fine amounts, granted authority for broader use of administrative citations, and clarified language to allow for greater cost recovery. Code compliance officers now have the flexibility to impose penalties that are appropriate in relationship to the severity of the violation (up to a maximum \$1,000 administrative citation). Fines are no longer required to start with the lowest \$100 penalty and increase sequentially with subsequent violations. Cases are referred to the City Attorney’s code enforcement unit in cases where voluntary compliance is not achieved.

CAPP Program

The Community Assisted Party Program is a joint effort between police and the community to curb nuisance behavior at chronic party houses, whereby the Police Department monitors disturbance calls and maintains a database of chronic party houses that are CAPP designated. The program evolved from the Mid City College Area Party Program that was created by the Mid City Police Division in 1989, and from a similar program implemented by the Northern Police Division in 1997. In response to concerns regarding consistency and effectiveness, the CAPP programs were merged into a single program to address chronic party houses citywide. Properties may be CAPP designated if there are two police responses in a 30-day period, if

police response results in an immediate arrest(s), or as concluded by an investigation conducted in response to neighbor petition. Property owners and tenants are notified that the house has been CAPP designated and are put on notice of a zero tolerance policy for future disturbance calls. Responsible property owners have appreciated this program, which in some cases has resulted in the eviction of problem tenants. The CAPP program is most effective when combined with the Administrative Citation Pilot Program, since the citation program allows for tenants and property owners to be fined by police officers responding to a loud party or disturbance call, which gives officers an additional tool to address repeat offenders. A total of five CAPP houses have been cited through the pilot program. Currently, there are 23 CAPP designated properties including two that were added to the CAPP database after being cited for disturbance calls on multiple dates during the pilot program.

The following options to address mini dorms are currently in process as separate projects:

Amendments to Address Inconsistent Physical Development

On July 9, 2007, the City Council unanimously approved amendments to the Land Development Code to address inconsistent physical development. The amendments placed a limitation on the number of bedrooms and the number of vehicles parked outside of a garage on lots less than 10,000 square feet. The ordinance also placed limitations on hardscape and design of parking spaces for all single dwelling unit lots. Two amendments specifically addressed parking impacts in the campus impact area of the Parking Impact Overlay Zone (surrounding SDSU, UCSD, and USD) by requiring homes with five or more bedrooms to provide one parking space per bedroom, with at least two of those parking spaces in a garage. The ordinance is currently effective in areas outside of the coastal overlay zone. For applicability in the coastal overlay zone, the ordinance is subject to certification by the California Coastal Commission.

Residential High Occupancy Permit

As requested by the City Council on July 9, 2007, the Residential High Occupancy Permit ordinance was drafted to provide an additional enforcement tool to address mini dorms by ensuring that high occupancy single dwelling units provide adequate parking and minimize impacts on surrounding properties. The Residential High Occupancy Permit would apply to residences with six or more adult occupants (aged 18 and older) and would require additional parking per occupant less one, thereby limiting the number of vehicles at high occupancy residences and requiring lower occupancies where there is not adequate space for the associated parking need. An annual Residential High Occupancy Permit fee would be collected to recover associated administrative and enforcement costs. The permit would be revocable in case of noncompliance. The ordinance will be considered by the City Council at a future date.

Rooming House Ordinance

As requested by the City Council on July 9, 2007, the proposed Rooming House Ordinance is an additional tool to be considered by the City Council to address the commercialization of single dwelling unit neighborhoods. The draft ordinance defines rooming houses as dwelling units with three or more bedrooms rented under three or more separate leases and then prohibits rooming houses from locating in single dwelling unit residential zones. The ordinance may limit properties to lower occupancies where the existing dwelling units are rented under multiple leases. The ordinance will be considered by the City Council at a future date.

Discussion

The Administrative Citation Pilot Program was initiated jointly by the San Diego Police Department Mid City Division and Development Services Department on April 30, 2007. The program has been successful in addressing nuisance behavior at identified party houses in the College Area. Since the program was initiated, 75 administrative citations have been issued at 32 properties including 70 tenant citations and 5 property owner citations. Only two properties have been cited for disturbances on multiple dates during the pilot program. In the long term, the administrative citation program is expected to encourage property owners to take a greater role in the management of their properties and discourage repeat offenders. Based on the success of the existing pilot program, staff recommends expansion to make this enforcement tool available to officers citywide.

In a typical year, SDPD receives approximately 22,000 disturbance calls (22,039 disturbance calls in 2006). Historically, the majority of loud party and/or loud music disturbance calls have been concentrated within the Mid City Division (neighborhoods surrounding San Diego State University) and Northern Police Division (beach communities and neighborhoods surrounding University of San Diego and University of California- San Diego). Expansion of the program would not only address loud parties in the beach areas, but would also facilitate enforcement of existing commercial enterprises that exhibit a pattern of nuisance noise and disturbances. For example, the program may also be used to cite property owners of short term vacation rentals that exhibit a pattern of nuisance noise, thereby encouraging greater accountability of property owners and resulting in greater protection of the quality of life in local neighborhoods.

The program has allowed SDPD officers to issue administrative citations to tenants and property owners during non-standard work hours when disturbance calls are typically received (i.e. evenings, weekends, and holidays). Police officers may issue a warning and/or \$1000 administrative citation at the officer's discretion. Citations can be issued regardless of whether the responsible party has face-to-face contact with the responding officer. For example, SDPD has issued citations in response to a loud party calls where the occupants have refused to answer the door or have run away from police officers. After the citation is issued, the responding officer issues a report to document the facts of the case and attends appeal hearings as applicable. SDPD estimates they spend approximately four hours of officer time per case, typically at an overtime rate. While SDPD has experienced an increase in officer time for participation in administrative citation appeal hearings, the Department observed an associated decrease in the amount of officer time participating in similar cases through the Mid City community court process.

SDPD transmits administrative citation case reports to Neighborhood Code Compliance where packets are prepared for each case. Administrative staff prepares documents for each case including confirmation of addresses and responsible parties, preparation and mailing of public notice packages for appeal hearings, and coordination of appeal hearings. Approximately 85 percent of all cases have been appealed. Cases are assigned to a Senior Zoning Investigator who attends appeal hearings, provides opening and closing statements, and coordinates witnesses. NCC staff estimates that administrative staff spends approximately 9 hours per case.

FISCAL CONSIDERATIONS:

In order to address the volume of mini dorm related/nuisance rental complaints, the City's general fund has been impacted. The administrative citation program is currently recovering a portion of the general fund costs related to its implementation directly from the parties responsible for the nuisance noise. To date, 75 (\$1000) administrative citations have been issued through the program at 32 properties, although some penalties have been modified by the Hearing Officer through the appeal process ranging from \$532 to \$1214 per citation (to include administrative costs). Nine citations have been paid in full to date (\$11,274.40). Citation revenue collected is applied towards expenses related to investigations, issuance of citations, and preparation of materials for appeal hearings. It is anticipated that expansion of the program would result in approximately 400 citations per year and generate approximately \$272,000 in revenue per year (taking into account the appeal process and debt collection rates.)

The workload of the pilot program was accommodated without additional staff. While the Police Department absorbed program costs within their existing budget and does not anticipate a need for additional staff to expand the program, Neighborhood Code Compliance experienced an increase in associated violation cases and an overall impact on existing resources. It is anticipated that expansion of the program would result in approximately 400 citations and 340 appeal hearings per year. It is expected that associated program administrative costs may be reduced within both the Police and Development Services Departments through long term implementation of the program. The number of field staff available to enforce existing codes or to address other programs and policies currently being considered by the Council to address mini dorms would not be impacted by the proposed program expansion. However, it is anticipated that Council may need to consider the addition of staff when the City Attorney and staff return in November to discuss the Rooming House Ordinance and Residential High Occupancy Permit.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 29, 2006, the Committee on Land Use and Housing (LU&H) received a report related to mini dorms/nuisance rental properties, and directed staff to prepare an ordinance to address mini dorms by amending the Land Development Code. LU&H also requested that staff return with information on the CAPP program including an analysis of whether SDPD has the authority to issue administrative citations directly to offenders for loud party calls, and requested clarification regarding the Neighborhood Code Compliance budget.

On March 7, 2007, LU&H received a follow up report related to mini dorms/nuisance rental properties, and voted 4-0 to support the 6-month SDPD/NCC Administrative Citation Pilot Program and report back to the Land Use and Housing Committee. LU&H also supported amendments to the Land Development Code to address mini dorms, encouraged monthly meetings within the community between various stakeholders and supported SDSU's proposal to add a code enforcement representative to their staff.

On July 9, 2007, the City Council unanimously approved amendments to the Land Development Code to address inconsistent physical development in single dwelling unit zones to address mini dorms. As part of the motion, the Council requested that staff prepare ordinances for additional options to address the mini dorm problem including a Rooming House Ordinance and Residential High Occupancy Permit, and requested that staff identify funding sources to achieve

greater cost recovery in order to hire additional code enforcement staff positions. Staff is prepared to return to Council in November to discuss the Residential High Occupancy Permit, funding sources and staff positions. The City Attorney is also expected to return at the same meeting to present the Rooming House Ordinance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 19, 2006, Development Services, Police, and City Attorney staff attended the Mini-Dorm Community Forum where staff fielded a variety of questions from the community. The Forum was well attended by the College Area community (approximately 330 residents), and received local media coverage including live broadcast on City Channel 24. Staff also participated in several follow up community meetings with the College Area Community Council. The September 2006 Mini Dorm Forum lead to two Land Use and Housing meetings, a May 2007 mini dorm discussion forum, Code Monitoring Team meetings, Community Planners Committee meetings, individual Community Planning Group meetings, and City Council hearings on the greater mini dorm topic. Information has been distributed in formal staff reports, posted on a dedicated webpage, and distributed by email blasts to citywide interest lists and other parties specifically interested in the mini dorm issue.

The Administrative Citation Pilot Program resulted from the March 7, 2007, LU&H meeting and was implemented in the College Area beginning April 30, 2007. The College Area Community Council included information about the Administrative Citation Pilot Program in their monthly community newsletters. The San Diego County Apartment Association also created a pamphlet and informational flyers to promote outreach of the program. San Diego State University assisted in spreading the word by including articles in the student paper and via the Associated Student sponsored Good Neighbor Program. SDPD and SDSU campus police have participated in community meetings throughout the pilot program, and have provided warnings prior to issuance of administrative citations, as appropriate. The public response to the Administrative Citation Program has been generally positive, with support for expansion of the program citywide, particularly to the beach communities.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are many stakeholders representing a wide spectrum of concerns with interest in the City's efforts to address mini-dorms, short term vacation rentals, and nuisance rental properties. They include, but are not limited to, single dwelling unit owners who occupy their residence, single dwelling unit owners who rent out their residence (short term and long term rentals), the College Area Rental Landlord Association, existing tenants, prospective home buyers, the San Diego County Apartment Association, local colleges and universities, members of the real estate industry, and community planning groups. Various City enforcement services (police, neighborhood code enforcement, and city attorney code enforcement unit) are impacted by the approximately 22,000 disturbance calls per year received, many of which are repeat offenders at identified nuisance rental properties.

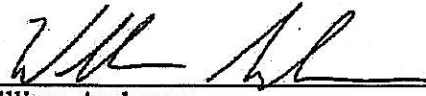
CONCLUSION:

The administrative citation program is an important tool available to San Diego Police officers to address loud party and disturbance calls. The program appears to be the most effective strategy for protecting the quality of life in local neighborhoods, since it can be utilized to address a variety of community threats such as mini dorms and short term vacation rentals, and allows the City to recover costs directly from the responsible parties. Staff recommends that the City expand the administrative citation program citywide to improve enforcement of existing noise regulations.

Respectfully submitted,



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