



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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 TOM BURNS. PLANNING DIRECTOR

May 8, 2008

AGENDA DATE: May 20, 2008

Board of Supervisors
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

SUBJECT: Code Compliance Program Workshop

Members of the Board:

During your consideration of a package of proposals presented by the Planning Department concerning regulatory reform for small-scale residential projects, a number of questions arose about the Department's Code Compliance Program. At the conclusion of that process on April 15th, you directed Planning staff to return on this agenda with a report focusing on how the current Code Compliance Program addresses illegal residential uses and construction and suggestions for enhancing the effectiveness of the program. Earlier in the year, in conjunction with this same topic we were directed to provide you with a report during budget hearings regarding the possibility of establishing a proactive inspection program to combat the conversion of non-habitable structures to habitable uses.

This report contains a description of the Code Compliance Program, the steps involved in the enforcement process, recent program improvements, and additional options to improve overall program effectiveness. It also serves as the report back on a proactive inspection program.

Finally, we have been working in conjunction with County Counsel on changes to County Code Chapter 1.12, primarily related to code enforcement penalties and the administrative hearing procedures used in code enforcement cases. We are requesting that your Board consider and adopt these proposed changes to County Code Chapter 1.12.

General Description of the Code Compliance Program

Source of Authority

The Code Compliance Program is the vehicle through which the County's land use regulations, including those related to building, zoning, and environmental codes, are enforced. The primary authority for the Program is provided in Chapters 1.12 and 19.01 of the County Code. These Chapters establish the overall framework for the Planning Department's Code Compliance Program and specify that land use violations are considered misdemeanors. Both civil and criminal remedies are available in order to obtain compliance. A detailed description

of the penalties that may be sought is contained below in the "Legal Sanctions" section of this report.

Source of Complaints and Complaint Priorities

While our staff will investigate certain activities during the course of their field work in the absence of a complaint filed by a member of the public, including grading in or adjacent to a stream or an unsafe or hazardous condition, the Code Compliance Program is primarily complaint driven. We field between 700 and 900 written complaints per year and compile information about the types of complaints received. A breakdown of these complaints for a recent period by category, follows: illegal habitation – 26%; miscellaneous zoning – 24%; miscellaneous building – 21%; environmental – 16%; neglected properties – 13%.

Based on the description provided, complaints are assigned a high, medium, or low priority at intake. We have internal goals for the timing of our initial response. Through more assertive management of our case load, we are very close to achieving these targeted response times for an initial field investigation by staff.

The most common types of high priority complaints include construction in progress and grading activities in the vicinity of streams. Common medium priority complaints include construction that has been completed previously without a permit, conversion and occupation of accessory structures, occupancy of trailers, RV's, or mobile homes, and accumulation of cars, appliances, and other material that creates a nuisance, or a neglected property. Examples of low priority complaints include construction of small accessory structures (generally in side or rear yards within urban areas), over height fences in the front yard set-back that do not result in a traffic line-of-sight hazard, construction or installation of a carport or shade structure, and minor sign violations.

Once verified and, if not corrected, staff seeks compliance and penalties through Superior Court or the Administrative Hearing process for high and medium priority violations. Low priority cases generally are not subject to active enforcement by the County once a Notice of Violation has been issued and recorded on the title to the property. These violations are resolved over time as properties change ownership, re-finance, or when permits are sought in connection with other improvements on the parcel.

Sources of Complexity

The Code Compliance Program operates within a rather complex system of checks and balances that affords protections and due process to those accused of violating County land use regulations. These protections and due process requirements are constitutionally provided and have also been established through the courts. These protections and our adherence to the due process that is required as part of our legal proceedings can result in delays in obtaining compliance.

In addition, many of the property owners with whom we interact present us with unique personal circumstances that become part of the mix of issues affecting our approach to

seeking compliance. For example, rental income from an illegally converted or constructed structure may provide the only means by which an on-site owner can support the mortgage on the property. In other instances, an aging or ailing family member may have been moved into an illegal structure. Other individuals do not have the financial resources either to legalize or undo the illegal work, work that may have been completed by a previous owner. The harsh reality is that, in some instances, the resolution of a violation can lead to extreme hardship for an owner.

Steps Involved in Obtaining Compliance

- Complaint:** Complaint forms are received via the mail, fax, or e-mailed. In-take staff evaluate the description of the complaint and survey our records to determine whether the work described in the complaint is or has been the subject of a permit. The complainant may be called to provide more specific information or documentation about the subject of the complaint. As described above, a priority level based upon the nature of the complaint. A letter is sent to the property owner advising them of our receipt of a complaint regarding their parcel.
- Investigation:** A Code Compliance Investigator visits the site to determine whether the allegations contained in the complaint have merit. Interior inspections must be performed in the presence of a tenant or the owner. If attempts to coordinate with and obtain permission from the owner are unsuccessful, the Investigator will need to seek an Administrative Warrant in order to conduct an inspection. At times the Investigator may need to perform additional research, including pulling archived building plans, in order to verify the legality of a structure upon which a complaint has been received. Determining whether an older structure is legal, legal non-conforming, or illegal can be time consuming and difficult.
- Posting:** If the Investigator confirms a violation, a Notice of Violation (red-tag) is posted at the site. Following this action, a Notice of Intent to Record the violation on the property title is sent to the owners of record. The owner may, within 20 days of this mailing, request that a Protest Meeting be held to present information as to why they do not believe a violation exists on the property. Request for such a meeting forestalls recordation of the Notice of Violation.
- Recordation:** If no Protest Meeting is requested or, when the meeting results in a determination that a violation exists, the Notice of Violation is recorded on the title to the property. Our goal with every case (absent a Protest Meeting) is to record the Notice of Violation within 30 – 40 days from the mailing date of the Notice of Intent to Record. For low priority cases, as described above, no further active enforcement action is taken. Recording the Notice of Violation ensures that future purchasers or lenders are aware of the violation on a given property.

Pursuit of

Legal Sanctions: Pursuit of penalties can occur as a result of taking a case to Administrative Hearing, referral to County Counsel for civil remedies in Superior Court, or referral to the District Attorney for criminal prosecution. The majority of cases for which penalties are sought are scheduled for Administrative Hearing.

As part of the Administrative Hearing process, staff develop Stipulations which prescribe the required corrective actions, the timeline for compliance and identify the monetary penalty sought. Awards include recovery of Code Compliance staff costs related to the case, imposition of Civil Penalties and forfeiture of illegal rents received by the property owner. Civil Penalties of \$2,500 per violation, to a maximum of \$10,000, may be sought. Illegal rents are currently included in the \$10,000 cap on Civil Penalties and, historically, have been rarely sought. Additionally, in all cases, the cost of staff time spent on the violation, accrued as an hourly billing, is charged back to the violator.

Immediate referral to County Counsel for civil action in Superior Court occurs for egregious violations of Building or Zoning regulations. Non-compliance with the "stop work" provision of a Notice of Violation results in a request for a Temporary Restraining Order and a Permanent Injunction. Failure to comply with the terms of a Stipulation or a Hearing Officer Decision and Order also results in referral to County Counsel for legal action.

Cases are occasionally referred to the District Attorney and commonly involve environmental violations that result in damage to stream resources. These cases are prosecuted as violations of the Fish and Game Code.

Monitor

Compliance: Once a Stipulation has been signed or a Court or Administrative Hearing Officer Order issued, Code Compliance staff must monitor progress toward compliance. Interim compliance deadlines contained in these documents specify when payment of penalties are due. Generally 25% of the penalties are due at the beginning of the compliance period, along with any accrued enforcement staff costs. The remaining 75% is typically waived if full compliance is met prior to the ultimate deadline. If not paid, monetary penalties may be collected through the placement of a tax lien on the subject property.

Stipulations and orders commonly establish deadlines for submission of permit applications and completion of corrective work to correct the violations. Staff track these deadlines and monitor progress toward

gaining permit approval once applications are submitted. Once issued, staff review progress made toward obtaining a final inspection which results in the violations being resolved. Once all violations are resolved, the recorded Notice of Violation is expunged, upon payment of all enforcement-related costs.

If compliance is not achieved, a case may be taken back to Administrative Hearing to seek additional penalties. Referral to County Counsel may also occur at this time. Referral to the District Attorney does not commonly occur at this step in the process, as such referral would more appropriately have taken place as our first option in pursuing legal sanctions on a case involving damage to a sensitive stream resource.

Program Improvements

Over the past year, Planning Department management staff have been involved in exploring ways to improve the efficiency and effectiveness of the Code Compliance Program. This effort has led to programmatic changes that have been implemented and to the exploration of other actions that could be incorporated into our enforcement efforts. These changes and other initiatives are summarized below:

Recently Implemented Changes

- Improvements to the complaint in-take process that have resulted in the receipt of better, more specific information about alleged violations. This has improved our ability to focus our limited staff resources on priority matters.
- Improvements in caseload management through the development and strengthening of systems and standards for tracking and advancing cases.
- Shifting of staff resources to enable us to develop Stipulations quickly and routinely, greatly increasing the speed with which a case may be scheduled for an Administrative Hearing.

Changes Currently Underway

- Increase in focus and efforts to remove tenants from illegally occupied structures, thereby depriving property owners of financial benefits that often impede compliance. We are coordinating with California Rural Legal Assistance on a process for informing eligible tenants about the potential for financial help available through the Rental Relocation Assistance Ordinance.
- The Department currently requires that Declarations of Restriction be recorded in order to alert future property owners about the limitations affecting certain types of buildings, such as non-habitable accessory structures. We are currently improving the descriptions used in these documents to be more specific as to the types of

features that the originally permitted structure contained and the uses for which it was authorized. Revised language will also indicate that forfeiture of illegal rents can be sought if the structure is subsequently converted and inhabited.

- Increase public access to information about the status of code compliance cases through the Hansen system and improve communication with complainants, through contact with these individuals at a critical juncture(s) regarding the case about which they have an interest.

Other Options to Improve Program Effectiveness

In addition to the programmatic improvements and other initiatives in progress described above, there are a number of other available options which, if supported by your Board, would allow the Planning Department to further improve the Code Compliance Program. These options are presented below:

Changes to County Code Chapter 1.12

As described previously in this report, County Code Chapter 1.12 provides the primary authority for the Code Compliance Program. County Counsel, in consultation with the Planning Department has prepared an ordinance amending Chapter 1.12 relating to code enforcement penalties and the administrative hearing procedures used in code enforcement cases. The proposed changes to the ordinance are included with this report as Attachment 1.

The proposed ordinance revisions are generally intended to be a clarification, rather than a change in existing regulations. The two exceptions are described below:

- Chapter 1.12 establishes the Administrative Hearing process and penalties that may be levied by the Hearing Officer. Civil Penalties of \$2,500 per violation, to a maximum of \$10,000, may be applied. Illegal rents are currently included in the \$10,000 limitation on Civil Penalties. One of the amendments would, if enacted, remove monetary penalties for illegal rents from the \$10,000 maximum allowable judgment for Civil Penalties. Such a change would provide us with an additional enforcement tool in depriving a property owner of the financial benefits that accrue from renting an illegal unit. It should be noted that this amendment does not apply to cases taken directly to Superior Court, where no such cap on penalties or illegal rents applies.
- Currently, the ordinance provides a property owner with 30 days to correct a violation prior to the imposition of civil penalties when the violation does not create an immediate danger to health or safety. One of our Superior Court judges has expressed concern that, in cases where there is no threat to public health and safety, violators be given a more reasonable amount of time to correct the violation before penalties are imposed. County Counsel has suggested that the ordinance be amended to provide a property owner with a 90 day period for correction of a violation prior to being liable for civil penalties.

Increased Pursuit of Illegal Rents

The Planning Department could, if directed, increase its efforts to pursue forfeiture of illegal rents. The proposed change to Chapter 1.12 described above could help to facilitate the effectiveness of this approach. The success of such an effort could only be achieved with the participation and willingness on the part of the Administrative Hearing Officers and Superior Court judges to levy significant penalties. We have not seen such a willingness to apply these sanctions in the few instances when we have requested forfeiture of illegal rents. This may be due, at least in part, to the unique personal circumstances presented by property owners in these cases and the fact that we have not consistently sought them. But if such sanctions were applied consistently, and these awards were publicized, it would serve as a deterrent to future illegal conversions.

Publicize Program Successes

To date, we have not worked with the media to publicize the successful prosecution of our higher profile cases. If done judiciously, publication of program successes could help to deter some individuals from committing violations of County land use regulations.

Proactive Inspection Program

Your Board, through consideration of the package of residential code simplification measures, has discussed the possibility of establishing a proactive inspection program in order to augment our enforcement efforts. As envisioned, such a program would consist of periodic inspections of permitted non-habitable structures to ascertain whether they had been converted to habitable use. As you may recall, interest in this type of a program was initially generated in the context of a fairly sweeping set of changes to regulations affecting residential development. The package of reforms ultimately adopted by your Board was, however, greatly reduced in scale from that originally proposed. Specifically, the deletion of toilets, baths, and showers as allowed features in accessory structures, in conjunction with the prohibition of independent kitchen facilities, makes it very unlikely that a detached room can be easily converted to an illegal rental unit. We believe that the need for a formal proactive inspection program, along with associated fees, has been similarly reduced.

We currently have the authority to request the inspection of previously permitted structures and, if necessary, authority to seek administrative inspection warrants. Because of the other programmatic improvements that the Department is currently actively pursuing in the area of code enforcement, we are not recommending the implementation of a full-fledged proactive inspection program at this time. Rather, we intend to judiciously use the authorities currently in place for code enforcement in situations that warrant such an approach.

Conclusion and Recommendations

The Code Compliance Program administered by the Planning Department operates within a rather complex system of checks and balances that afford protections and due process to

those accused of violating County land use regulations. The Department has implemented a number of changes to the program in the past several months that will result in improvements to its efficiency and effectiveness. Likewise, other initiatives are in progress that we feel will yield positive programmatic results.

Finally, there are other options available to increase the effectiveness of the program. We are recommending that your Board take action on two of these options, relating to proposed changes to County Code Chapter 1.12 and a more consistent effort on the part of the Planning Department to seek forfeiture of illegal rents.

It is therefore RECOMMENDED that your Board take the following actions:

1. Accept and file this report on the Planning Department's Code Compliance Program;
2. Direct the Planning Department to more aggressively pursue the forfeiture of illegal rents in cases that involve illegally constructed or converted rental units;
3. Adopt, in concept, the attached ordinance amending sections 1.12.010, 1.12.060, and 1.12.070 of Chapter 1.12 of the County Code relating to code enforcement penalties and the administrative hearing procedures used in code enforcement cases (Attachment 1); and
4. Direct the Clerk of the Board to place the ordinance on your June 10, 2008 agenda for final consideration.

Sincerely,



Tom Burns
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachment:

1. Proposed County Code Chapter 1.12 Ordinance Amendments
2. Proposed County Code Chapter 1.12 Ordinance Amendments with Changes Highlighted

TB:kh\G:\Board Letters\Pending

ORDINANCE NO. _____

0815

**ORDINANCE AMENDING SECTIONS 1.12.010, 1.12.060,
AND 1.12.070 OF THE SANTA CRUZ COUNTY CODE
RELATING TO VIOLATIONS OF THE COUNTY CODE**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 1.12.010 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.010 Code violations deemed misdemeanors--Continuing violations.

It is unlawful, and constitutes a misdemeanor, for any person to violate, or to fail to comply with, any provision of the Santa Cruz County Code unless otherwise specified. Where the violation is denominated a misdemeanor, enforcement may be pursued by one or more of those alternatives set forth in Section 19.01.030 of the County Code. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this code is committed, continued or permitted. (Prior code § 1.08.010: Ord. 1532, 7/21/70)

SECTION II

Section 1.12.060 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.060 Violations — Effect on permit issuance.

An application for a permit pursuant to provisions of the Santa Cruz County Code may be denied or conditionally approved if one or more posted violations of the code or state law are found to exist on the same property and said application does not address the posted violations, with the exception of an application that the Planning Director determines is necessary to address immediate health and safety concerns. Acceptance of an application for a permit may be withheld until the applicant has paid the county's total cost of enforcement with regard to any violation(s) sought to be resolved by the application and with regard to any related violation; and any unpaid application fees and charges relating to the same property may be required to be paid prior to issuance of a permit. (Ord. 4266 § 1, 1993; Ord. 4257 § 1, 1993; prior code § 1.08.070: Ord. 2366, 11/30/76)

SECTION III

Section 1.12.070 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.070 Code violations--Civil penalties--Illegal rents--Enforcement costs--Hearing officers--Administrative hearing procedures.

A. Civil penalties. Notwithstanding the legal authority to seek criminal remedies, including fines and/or imprisonment, the County may seek one or more of the civil remedies set forth in County Code section 19.01.030. Any person who violates any provision of the Santa Cruz County Code, including any failure to comply with any provision of the code, shall be liable in a civil proceeding for: (1) a civil penalty not to exceed one hundred dollars for each violation that would otherwise be an infraction, provided that a second violation of the same ordinance within twelve preceding months shall be subject to a civil penalty not to exceed two hundred dollars and any additional violation of the same ordinance within one year shall be subject to a civil penalty not to exceed five hundred dollars; or (2) a civil penalty not to exceed two thousand five hundred dollars for each violation that would otherwise be a misdemeanor. After any person has been given notice that any act or failure to act is a violation of the code, it shall be a separate offense for each and every day during any portion of which that person knowingly and intentionally commits or permits additional acts constituting a violation of that provision of this code. Any penalties recovered under this subsection in excess of the total county costs of enforcement shall be deposited in the county's general fund.

B. Illegal rents. In addition to the civil penalty provided by subsection A of this section, any person who constructs or converts, installs or maintains a structure for human habitation without a building or development permit in violation of any provision of this code which would otherwise be a misdemeanor shall be liable for a civil penalty in the amount of any rent received from any occupant or, in the alternative, in the amount of the reasonable rental value of the structure based on the Santa Cruz County Housing Authority's *Schedule of Payment Standards* for rentals from the date of its construction, conversion, installation, or maintenance. For the purposes of this subsection, a structure for human habitation shall include, but not be limited to, a recreational vehicle, trailer, mobile home, tent, modular or other enclosure used for human habitation. Any penalties recovered under this subsection shall be deposited in a fund designated by the Board of Supervisors for code compliance related functions.

C. Enforcement costs. A person violating any of the provisions of the Santa Cruz County Code which would otherwise be a misdemeanor shall be liable to pay the county's total costs of enforcement, including charges for reasonable attorney's fees.

D. Hearing Officers.

1. Duties. The Board of Supervisors shall provide independent contractor hearing officers to conduct hearings, to issue subpoenas, to receive evidence to administer oaths, to rule on questions of law and the admissibility of evidence, to prepare a record of the proceedings, to issue enforcement orders with regard to violations of the county code or of specified chapters of the county code, and to provide for the recovery of enforcement costs, any civil penalties including, but not limited to, penalties imposed as a result of illegal rents, and any other costs of abatement as a special assessment

against the property on which the violation(s) occurred or as a personal obligation of the person violating, causing, permitting or continuing the violation(s).

2. Notice of Violation--Contents.

a. Prior to instituting any administrative proceedings for the recovery of civil penalties for continuing violations which pertain to building, plumbing, electrical or similar structural or zoning or environmental issues that do not create an immediate danger to health or safety, notice of the opportunity to correct or remedy the violation within ninety (90) calendar days without civil penalties shall be provided to the person responsible for the continuing violation by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing and by posting the notice on the site of violation.

b. The notice of violation shall also state the county code provisions alleged to have been violated; the location of the property on which the alleged violation has occurred, including the parcel number used by the assessor on the current roll; the name and address, if known, of the person alleged to have committed or permitted the violation(s) and of the property owner and other person, if any, in possession of the property, and the name, address and telephone number of the department or agency issuing the notice to which protests, or objections, or other communications may be directed.

3. Notice of Administrative Hearing. Should a code enforcement matter be set for administrative hearing, written notice of the time, date and location of a hearing before the hearing officer shall be given by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the person or persons alleged to have violated the county code, and to any other person known to own or possess the property, at least fifteen days prior to the date of the hearing.

4. Hearing Officer Disqualification. Hearing officers shall be licensed attorneys of the State Bar of California in good standing. A hearing officer shall disqualify himself or herself from serving as hearing officer in a particular matter where he/she has a conflict of interest within the meaning of the Political Reform Act (Government Code Sections 87100 et seq.), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The notice of hearing shall also identify the hearing officer designated to conduct the hearing and advise the recipient(s) of their right to submit within ten business days of the date of the notice of hearing a written objection to the designated hearing officer. In the event of such a disqualification, a new hearing officer shall be randomly selected from the panel of alternate hearing officers established by the Board of Supervisors. Each party shall only have the right to disqualify one hearing officer for a particular matter.

5. Hearing Officer Procedures.

a. Requirements for Taking Testimony. In any proceeding before a hearing officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the hearing officer, his/her clerk, or other designee have the power to administer oaths and affirmations and to certify to official acts. Oaths of witnesses may be given individually or en masse. Witnesses shall be asked to raise their right hands and to swear

or affirm that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

b. Continuances. The hearing officer may continue the hearing as determined appropriate by the hearing officer.

c. Administrative Interpretations. In conducting the hearing, the hearing officer shall give weight to the previously established interpretation of an ordinance provision by the department charged with its enforcement unless that interpretation is shown to be clearly erroneous or unauthorized.

d. Hearing Officer Decisions. At the conclusion of the hearing held on the alleged violation(s), the hearing officer shall have the authority, subject to the limitations set forth in this section, to render a decision, supported by written findings, which:

i. Determines whether the person given notice has committed, maintained, or permitted the the alleged violation(s) of the county code;

ii. Orders the payment, without reduction or compromise, of the total verified amount of the county's enforcement costs and other abatement costs by any such person found to have committed or permitted the violations;

iii. Orders the payment of civil penalties, including any imposed as a result of illegal rents, to be paid by any such person found to have committed or permitted the violations;

iv. Orders action to be taken to correct any violations by any such person found to have committed or permitted the violations including, but not limited to, the termination of tenancies and the vacating of illegal structures;

v. Determines whether any enforcement costs, other abatement costs, and civil penalties are to be made a special assessment against the property on which the violation(s) occurred and collected on the secured tax roll, and/or are to be the personal obligation of the person committing or permitting the violation and collected on the unsecured tax roll.

E. In determining the amount of civil penalties to be assessed against any person violating a provision of the county code, which would otherwise be a misdemeanor, the hearing officer shall take into consideration the following:

1. The extent to which the person knowingly and wilfully violated the county code;

2. The magnitude of the violation;

3. The extent to which the person derived a financial benefit from the violation;

4. Any prior history of related violations by the same person on the subject property or on other parcels within the county;

5. The financial ability of the person to pay;

6. Any corrective action voluntarily undertaken by the person prior to the hearing to eliminate the violation and any other mitigating circumstances justifying a reduction of the amount of the penalties.

F. The authority of the hearing officer to impose civil penalties for a violation which would otherwise be a misdemeanor is limited to a maximum of two thousand five hundred dollars per violation, and a total of ten thousand dollars for related multiple

violations on a single parcel of property by any one person. These maximum limitations⁸¹⁹ shall be exclusive of any civil penalties imposed as a result of illegal rents.

G. The decision of the hearing officer shall be final when issued in writing, and shall be enforceable twenty-one days after service of the decision by mail, unless an appeal of the decision has been filed by the person in accordance with subsection H of this section. The decision of the hearing officer shall include a statement of the appeal rights of any party to the proceeding as set forth in subsection H of this section.

H. The provisions of Section 53069.4 of the Government Code shall be applicable with regard to proceedings to obtain judicial review of the decisions of the hearing officer. The decision of the hearing officer shall be subject to judicial review pursuant to the provisions of Section 53069.4 of the Government Code only if an appeal is filed with the Santa Cruz superior court clerk, together with the applicable appeal fee, within twenty days after service of the decision of the hearing officer by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. Any person filing an appeal shall serve a copy of the notice of appeal in person or by first class mail on the hearing officer with a copy to the county planning director. Within fifteen days from request from the court, the hearing officer shall forward to the court the file of the hearing together with the notice of violation of this code, the notice of code violation hearing before a hearing officer, and the decision of the hearing officer. If an appeal is not timely filed in accordance with this subsection, all persons are barred from commencing or prosecuting any such action or proceeding or asserting any defense of invalidity or unreasonableness of such decision, proceedings, determinations or actions taken.

I. The hearing officer shall submit the decision to the Clerk of the Board of Supervisors and a copy to the planning director. At such time as a decision which imposes a special assessment is enforceable as provided in subsection G of this section, the planning director shall cause to be recorded in the county recorder's office a notice of code enforcement assessment lien if the special assessment is then unpaid. Upon recordation of a notice of code enforcement assessment lien, the assessment lien shall attach to the property. Each such assessment lien shall be subordinate to all existing special assessment liens previously imposed upon such property and paramount to all other liens except those for state, county and municipal taxes with which it shall be upon parity. The lien shall continue until the amount of the lien and all interest and penalties due and payable thereon are paid. Recordation of a notice of code enforcement assessment lien shall have the same effect as recordation of an abstract of a money judgment. At such time as any decision of the hearing officer is enforceable which orders the payment of enforcement costs, and other abatement costs, and/or civil penalties, and such costs and civil penalties have not then been paid in full, the planning director shall file with the auditor-controller and tax collector a certified copy of the notice of code enforcement assessment lien for each obligation for payment which has been made a special assessment, and a notice of code enforcement personal obligation for each which is a personal obligation. The auditor-controller shall add the unpaid amount(s) of the special assessments to the next regular tax bill for taxes levied against said property for county purposes. For personal obligations, the auditor-controller shall add the unpaid

amounts to the unsecured tax roll. Thereafter, said amount(s) added to the secured and unsecured tax rolls shall be collected at the same time and in the same manner as county taxes are collected, and shall be subject to the same interest charges and penalties and procedure for sale in case of delinquency as provided for property taxes of the county, and all laws applicable to the levy, collection and enforcement of county taxes shall be applicable. If any real property to which a code enforcement assessment lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent then the enforcement costs, other abatement costs, and civil penalties shall not result in a lien against the real property but shall be transferred to the unsecured roll for collection.

J. On payment of the tax collector of a special assessment, the tax collector shall cause to be recorded a release of lien with the county recorder, and from the sum collected pursuant to this section the auditor-controller shall distribute to the county recorder a release of lien fee established by Government Code Section 27631.3.

K. The county counsel upon receipt of a final decision of a hearing officer which orders the payment of civil penalties or payment of enforcement costs or other abatement costs, or upon obtaining authorization from the Board of Supervisors of the county, may (in addition to any other collection procedures provided by this section) prepare and file a civil action on behalf of the county in any court of competent jurisdiction to recover the civil penalties and costs of enforcement provided by this section and for injunctive or any other appropriate relief.

L. In the event a civil action is initiated to obtain enforcement of the decision of the hearing officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the county's total costs of enforcement, including reasonable attorney's fees.

M. The remedies and civil penalties provided by this section shall be in addition to any other remedies and penalties provided by law. (Ord. 4708 § 1, 4/8/03; Ord. 4701 § 1, 1/14/03; Ord. 4695 § 4, 12/10/02; Ord. 4546 § 1, 1999; Ord. 4401 § 1, 1996; Ord. 4290 § 1, 1994; Ord. 4266 § 2, 1993; Ord. 4257 § 2, 1993; Ord. 4110 § 1 (part), 1991; Ord. 3991 § 1, 1989; Ord. 3951 § 1, 1988)

SECTION III

Except for the amendment contained in subsection 2.a. of subdivision D of Section 1.12.070 relating to the time provided to correct certain violations without incurring civil penalties, the provisions of this Ordinance are intended to be a declaration or clarification of existing law rather than a change in law.

SECTION IV

This ordinance shall take effect and be operative on the 31st day after the date of final passage.

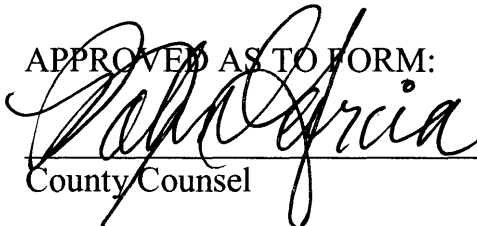
PASSED AND ADOPTED THIS _____ day of _____, 2008, by the⁰⁸²¹
Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:



County Counsel

Distribution: County Administrative Officer
Planning Department

ORDINANCE NO. _____

0822

**ORDINANCE AMENDING SECTIONS 1.12.010, 1.12.060,
AND 1.12.070 OF THE SANTA CRUZ COUNTY CODE
RELATING TO VIOLATIONS OF THE COUNTY CODE**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 1.12.010 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.010 Code violations deemed misdemeanors--Continuing violations.

It is unlawful, and constitutes a misdemeanor, for any person to violate, or to fail to comply with, any provision of the Santa Cruz County Code unless otherwise specified. Where the violation is denominated a misdemeanor, enforcement may be pursued by one or more of those alternatives set forth in Section 19.01.030 of the County Code. It shall be a continuing offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this code is committed, continued or permitted. (Prior code § 1.08.010: Ord. 1532, 7/21/70)

SECTION II

Section 1.12.060 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.060 Violations — Effect on permit issuance.

An application for a permit pursuant to provisions of the Santa Cruz County Code may be denied or conditionally approved if any related one or more posted violations of the code or state law is/are found to exist on the same property and said application does not address the posted violations, with the exception of an application that the Planning Director determines is necessary to address immediate health and safety concerns. Acceptance of an application for a permit may be withheld until the applicant has paid the county's total cost of enforcement with regard to any violation(s) sought to be resolved by the application and with regard to any related violation; and any unpaid application fees and charges relating to the same property may be required to be paid prior to issuance of a permit. (Ord. 4266 § 1, 1993: Ord. 4257 § 1, 1993: prior code § 1.08.070: Ord. 2366, 11/30/76)

SECTION III

Section 1.12.070 of the Santa Cruz County Code is hereby amended to read as follows:

1.12.070 Code violations--Civil penalties--~~Illegal rents~~—Enforcement costs--Hearing officers--Administrative hearing procedures.

A. Civil penalties. ~~Notwithstanding the legal authority to seek criminal remedies, including fines and/or imprisonment, the County may seek one or more of the civil remedies set forth in County Code section 19.01.030.~~ Any person who violates any provision of the Santa Cruz County Code, including any failure to comply with any provision of the code, shall be liable in a civil proceeding for: (1) a civil penalty not to exceed one hundred dollars for each violation that would otherwise be an infraction, provided that a second violation of the same ordinance within ~~one year~~ twelve preceding months shall be subject to a civil penalty not to exceed two hundred dollars and any additional violation of the same ordinance within one year shall be subject to a civil penalty not to exceed five hundred dollars; or (2) a civil penalty not to exceed two thousand five hundred dollars for each violation that would otherwise be a misdemeanor. After any person has been given notice that any act or failure to act is a violation of the code, it shall be a separate offense for each and every day during any portion of which that person knowingly and intentionally commits or permits additional acts ~~on the~~ on this of this code. Any penalties recovered under this subsection in excess of the total county costs of enforcement shall be deposited in the county's general fund.

B. Illegal rents. In addition to the civil penalty provided by subsection A of this section, any Any person who constructs or converts, installs or maintains a structure for human habitation without a building or development permit in violation of any provision of this code which would otherwise be a misdemeanor shall be liable for a civil penalty in the amount of any rent received from any occupant ~~person occupying the illegal structure, or, in the alternative, in the amount of the reasonable rental value of the structure based on the Santa Cruz County Housing Authority's Schedule of Payment Standards for rentals from the date of its construction, or conversion, installation, or maintenance.~~ For the purposes of this subsection, a structure for human habitation shall include, but not be limited to, a recreational vehicle, trailer, mobile home, tent, modular or other enclosure used for human habitation. Any penalties recovered under this subsection shall be deposited in a fund designated by the Board of Supervisors for code compliance related functions.

C. Enforcement costs. A person violating any of the provisions of ~~this code~~ the Santa Cruz County Code which would otherwise be a misdemeanor shall be liable to pay the county's total costs of enforcement, including charges for reasonable attorney's fees.

D. Hearing Officers.

1. Duties. The ~~board of supervisors~~ Board of Supervisors shall provide independent contractor hearing officers to conduct hearings, to issue subpoenas, to receive evidence to administer oaths, to rule on questions of law and the admissibility of evidence, to prepare a record of the proceedings, to issue enforcement orders with regard to violations of the county code or of specified chapters of the county code, and to provide for the recovery of enforcement costs, any civil penalties including, but not limited to, penalties imposed as a result of illegal rents, and any other costs of abatement as a special assessment against the property on which the violation(s) occurred or as a personal obligation of the person violating, causing, permitting or continuing the violation(s).

2. Notice of Violation--Contents.

a. Prior to instituting any administrative proceedings for the recovery of civil penalties for continuing violations which pertain to building, plumbing, electrical or similar structural or zoning or environmental issues that do not create an immediate danger to health or safety, notice of the opportunity to correct or remedy the violation within ~~thirty~~ ninety (90) calendar days without civil penalties shall be provided to the person responsible for the continuing violation by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing and by posting the notice on the site of violation. ~~Written notice of the time, date and location of a hearing before the hearing officer shall be given by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the person or persons alleged to have violated the county code, and to any other person known to own or possess the property, at least fifteen days prior to the date of the hearing.~~

b. The notice of violation shall also state the county code provisions alleged to have been violated; ~~a description~~ the location of the property on which the alleged violation has occurred, including the parcel number used by the assessor on the current roll; the name and address, if known, of the person alleged to have committed or permitted the violation(s) and of the property owner and other person, if any, in possession of the property, ~~the estimated costs of enforcement, other abatement costs and civil penalties proposed to be made a special assessment against the property and collected on the tax roll or to be collected as a personal obligation;~~ and the name, address and telephone number of the department or agency issuing the notice to which protests, or objections, or other communications may be directed.

3. Notice of Administrative Hearing. Should a code enforcement matter be set for administrative hearing, written notice of the time, date and location of a hearing before the hearing officer shall be given by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the person or persons alleged to have violated the county code, and to any other person known to own or possess the property, at least fifteen days prior to the date of the hearing.

e4. **Hearing Officer Disqualification.** Hearing officers shall be licensed attorneys of the State Bar of California in good standing. A hearing officer shall disqualify himself or herself from serving as hearing officer in a particular matter where he/she has a conflict of interest within the meaning of the Political Reform Act (Government Code Sections 87100 et seq.), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The notice of hearing shall also identify the hearing officer designated to conduct the hearing and advise the recipient(s) ~~of the notice~~ of their right to submit within ten business days of the date of the notice of hearing a writing rejecting written objection to the designated hearing officer. In the event of such a disqualification, a new hearing officer shall be randomly selected from the panel of alternate hearing officers established by the ~~board of supervisors~~ Board of Supervisors. Each party shall only have the right to disqualify one hearing officer for a particular matter.

d5. **Hearing Officer Procedures.**

a. **Requirements for Taking Testimony.** In any proceeding before a hearing officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the hearing officer, his/her clerk, or other designee have the power to administer oaths and affirmations and to certify to official acts. Oaths of witnesses may be given individually or en masse. Witnesses shall be asked to raise their right hands and to swear or affirm that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

eb. **Continuances.** The hearing officer may continue the hearing as determined appropriate by the hearing officer.

fc. **Administrative Interpretations.** In conducting the hearing, the hearing officer shall give weight to the ~~administrative~~ previously established interpretation of an ordinance provision by the department charged with its enforcement unless that interpretation is shown to be clearly erroneous or unauthorized.

gd. **Hearing Officer Decisions.** At the conclusion of the hearing held on the alleged violation(s), the hearing officer shall have the authority, subject to the limitations set forth in this section, to render a decision, supported by written findings, which:

1. Determines ~~if~~ the person given notice has committed, maintained, or permitted the the alleged violation of ; ~~until~~ has been committed or permitted by the person given notice;

ii. Orders the payment, without reduction or compromise, of the total verified amount of the county's enforcement costs and other abatement costs by any such person found to have committed or permitted the violations;

iii. Orders the payment of civil penalties, including any imposed as a result of illegal rents, to be paid by any such person found to have committed or permitted the violations;

iv. Orders action to be taken to correct any violations by any such person found to have committed or permitted the violations including, but not limited to, the termination of tenancies and the vacating of illegal structures;

v. Determines whether any enforcement costs, other abatement costs, and civil penalties are to be made a special assessment against the property on which the violation(s) occurred and collected on the secured tax roll, and/or are to be the personal obligation of the person committing or permitting the violation and collected on the unsecured tax roll.

E. In determining the amount of civil penalties to be assessed against any person violating a provision of the county code, which would otherwise be a misdemeanor, the hearing officer shall take into consideration the following:

1. The extent to which the person knowingly and wilfully violated the county code;

2. The magnitude of the violation;

3. The extent to which the person derived a financial benefit from the violation;

4. Any prior history of related violations by the same person on the subject property or on other parcels within the county;

5. The financial ability of the person to pay;

6. Any corrective action voluntarily undertaken by the person prior to the hearing to eliminate the violation and any other mitigating circumstances justifying a reduction of the amount of the penalties.

F. The authority of the hearing officer to impose civil penalties for a violation which would otherwise be a misdemeanor is limited to a maximum of two thousand five hundred dollars per violation, and a total of ten thousand dollars for related multiple violations on a single parcel of property by any one person. These maximum limitations shall be exclusive of any civil penalties imposed as a result of illegal rents.

G. The decision of the hearing officer shall be final when issued in writing, and shall be enforceable twenty-one days after service of the decision by mail, unless an appeal of the decision has been filed by the person in accordance with subsection H of this section. The decision of the hearing officer shall include a statement of the appeal rights of any party to the proceeding as set forth in subsection H of this section.

H. The provisions of Section 53069.4 of the Government Code shall be applicable with regard to proceedings to obtain judicial review of the decisions of the hearing officer. The decision of the hearing officer shall be subject to judicial review pursuant to the provisions of Section 53069.4 of the Government Code only if an appeal is filed with the Santa Cruz superior court clerk, together with the ~~twenty-five dollar~~ applicable appeal fee, within twenty days after service of the decision of the hearing officer by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing. Any person filing an appeal shall serve a copy of the notice of appeal in person or by first class mail on the hearing

officer with a copy to the county planning director. Within fifteen days from request from the court, the hearing officer shall forward to the court the file of the hearing together with the notice of violation of this code, the notice of code violation hearing before a hearing officer, and the decision of the hearing officer. If an appeal is not timely filed in accordance with this subsection, all persons are barred from commencing or prosecuting any such action or proceeding or asserting any defense of invalidity or unreasonableness of such decision, proceedings, determinations or actions taken.

I. The hearing officer shall submit the decision to the ~~clerk~~ Clerk of the ~~board~~ Board of ~~supervisors~~ Supervisors and a copy to the planning director. At such time as a decision which imposes a special assessment is enforceable as provided in subsection G of this section, the planning director shall cause to be recorded in the county recorder's office a notice of code enforcement assessment lien if the special assessment is then unpaid. Upon recordation of a notice of code enforcement assessment lien, the assessment lien shall attach to the property. Each such assessment lien shall be subordinate to all existing special assessment liens previously imposed upon such property and paramount to all other liens except those for state, county and municipal taxes with which it shall be upon parity. The lien shall continue until the amount of the lien and all interest and penalties due and payable thereon are paid. Recordation of a notice of code enforcement assessment lien shall have the same effect as recordation of an abstract of a money judgment. At such time as any decision of the hearing officer is enforceable which orders the payment of enforcement costs, and other abatement costs, and/or civil penalties, and such costs and civil penalties have not then been paid in full, the planning director shall file with the auditor-controller and tax collector a certified copy of the notice of code enforcement assessment lien for each obligation for payment which has been made a special assessment, and a notice of code enforcement personal obligation for each which is a personal obligation. The auditor-controller shall add the unpaid amount(s) of the special assessments to the next regular tax bill for taxes levied against said property for county purposes. For personal obligations, the auditor-controller shall add the unpaid amounts to the unsecured tax roll. Thereafter, said amount(s) added to the secured and unsecured tax rolls shall be collected at the same time and in the same manner as county taxes are collected, and shall be subject to the same interest charges and penalties and procedure for sale in case of delinquency as provided for property taxes of the county, and all laws applicable to the levy, collection and enforcement of county taxes shall be applicable. If any real property to which a code enforcement assessment lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent then the enforcement costs, other abatement costs, and civil penalties shall not result in

a lien against the real property but shall be transferred to the unsecured roll for collection.

J. On payment of the tax collector of a special assessment, the tax collector shall cause to be recorded a release of lien with the county recorder, and from the sum collected pursuant to this section the auditor-controller shall distribute to the county recorder a release of lien fee established by Government Code Section 27631.3.

K. The county counsel upon receipt of a final decision of a hearing officer which orders the payment of civil penalties or payment of enforcement costs or other abatement costs, or upon obtaining authorization from the ~~board~~ Board of supervisors ~~Supervisors~~ of the county, may (in addition to any other collection procedures provided by this section) prepare and file a civil action on behalf of the county in any court of competent jurisdiction to recover the civil penalties and costs of enforcement provided by this section and for injunctive or any other appropriate relief. ~~Any penalties recovered by the county counsel under subsection B of this section in excess of the total county costs of enforcement shall be deposited in the county's affordable housing fund. All other penalties recovered by the county counsel under this section in excess of the total county costs of enforcement shall be deposited in the county's general fund.~~

L. In the event a civil action is initiated to obtain enforcement of the decision of the hearing officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the county's total costs of enforcement, including reasonable attorney's fees.

M. The remedies and civil penalties provided by this section shall be in addition to any other remedies and penalties provided by law. (Ord. 4708 § 1, 4/8/03; Ord. 4701 § 1, 1/14/03; Ord. 4695 § 4, 12/10/02; Ord. 4546 § 1, 1999; Ord. 4401 § 1, 1996; Ord. 4290 § 1, 1994; Ord. 4266 § 2, 1993; Ord. 4257 § 2, 1993; Ord. 4110 § 1 (part), 1991; Ord. 3991 § 1, 1989; Ord. 3951 § 1, 1988)

SECTION III

Except for the amendment contained in subsection 2.a. of subdivision D of Section 1.12.070 relating to the time provided to correct certain violations without incurring civil penalties, the provisions of this Ordinance are intended to be a declaration or clarification of existing law rather than a change in law.

SECTION IV

This ordinance shall take effect and be operative on the 3rd day after the date of final passage.

PASSED AND ADOPTED THIS _____ day of _____, 2008, by
the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

County Counsel

Distribution: County Administrative Officer
Planning Department

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Sunday, May 18, 2008 12:05 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Deming Stout

Email : stout121@cruzio.com

Address : 121 Pasture Road
Santa Cruz, CA.

Phone : 831 425 1170

Comments :

I wish to go on record as objecting to this proposed change in the code enforcement process. Clearly the concept is at best another mistake/miss step by the board.

Undoubtedly if this is passed it will be contested in courts of law and will waste further precious resources of our community.

At a time in our county when we are faced with changing finances, adding to divisions seems to be the last thing that you would want to do.

Deming Stout

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Susan C. Snyder
2-3645 E. Cliff Drive
Santa Cruz, CA 95062
Home: (831) 475-2694
Work: (831) 427-2727

May 19, 2008

Santa Cruz County Supervisors

Re: Planning Dept. Proposal re Code Enforcement
Hearing May 20, 2008

Dear Supervisors:

I write to strongly oppose proposed measures brought by the Planning Department to enhance the County's code enforcement capabilities. If I understand correctly, the measure would call for a mandatory, recorded deed restriction allowing for County inspection, at will, in perpetuity, as a condition of granting a permit for any project. I believe this would be excessive, as there already exists a rigorous code enforcement process with adequate tools to support investigation. Further exaction of applicants' rights and property owners' rights is just shameful.

Just when we are thinking "how can the Planning Department get any worse" ...

Respectfully,



Susie Snyder

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CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 12:50 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : SLV Property Owners' Assn.

Email : President@SLVPOA.org

Address : P.O. Box 325
Ben Lomond, CA. 95005

Phone : Not Supplied

Comments :
San Lorenzo Valley Property Owners' Association
P.O. Box 325
Ben Lomond, CA. 95005

The Board of Supervisors Monday, May 19, 2008
Santa Cruz County
5th Floor
701 Ocean St.
Santa Cruz, CA. 95060 Agenda Item 97, May 20, 2008

RE: Consider report on the Code Enforcement Program and consider proposed amendments to Chapter 1.12 of the County Code relating to code enforcement penalties and hearing officer procedures

Board of Supervisors,

The right to the use of one's property and freedom are inseparable.

The assault by our elected representatives to county government on the privacy and constitutional rights of property owners in Santa Cruz County must stop.

The mission of the Board is to direct overall operations of the various county departments and districts by establishing policies and approving the budgets and financing for all of county government and certain special districts.

The genesis of your authority to oversee the workings of local government is your election by majority vote by your constituents who primarily consist of property owners.

In the Planning Director's letter to the Board, Mr. Burns, writes, ". . . many of the property owners with whom we interact present us with unique personal circumstances that become part of the mix of issues affecting our approach to seeking compliance.

For example, rental income from an illegally converted or constructed structure may provide the only means
5/20/2008

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by which an on-site owner can support the mortgage on the property. In other instances, an aging or ailing family member may have been moved into an illegal structure. Other individuals do not have the financial resources either to legalize or undo the illegal work, work that may have been completed by a previous owner. The harsh reality is that, in some instances, the resolution of a violation can lead to extreme hardship for an owner."

Mr. Burns, after informing the Board of the devastation that may befall those victims of his unjustly severe sanctions, then goes on to write that the changes currently underway include:

1. Increase in focus and efforts to remove tenants from (allegedly) illegally occupied structures thereby depriving property owners of financial benefits that often impede compliance,
2. Requesting that Declarations of Restriction be recorded in order to alert future property owners about the limitations affecting certain types of buildings, such as non-habitable accessory structures.
3. Revised language will also indicate that forfeiture of illegal rents can be sought if the structure is subsequently converted and inhabited."

He then requests that the Board "Direct the Planning Department to more aggressively pursue the forfeiture of illegal rents in cases that involve illegally constructed or converted rental units"

Mr. Burns writes: "Increase pursuit of illegal rents: . . . But if such sanctions (forfeiture of illegal rents) were applied consistently, and these awards were publicized, it would serve as a deterrent to future illegal conversions."

By that statement, Mr. Burns is requesting the Board's permission to publicize information on how renters can shake down their landlords with threats of exposure to the planning department of some alleged building or code infraction which could lead to all kinds of trouble and expense for a property owner.

The Board of Supervisors has restricted property owners from providing small secondary rental units such as a converted garage, or a studio apartment through catch-22 building regulations enacted over the years. This latest revision is no better. The restrictions required for a building permit subject the owners to police-state tactics initiated by snitches and acted upon by code enforcement staff.

In April 15, 2008 agenda item #37:

(5) directed Planning staff to report back on May 20, 2008, with a report focusing on how the current Code Enforcement Program addresses illegal residential uses and construction as well as alternative approaches for how the program could operate; (6) with the following changes: (a) in Attachment 3, exhibit A, on page 627, the proposed ordinance amendments, under the Required Conditions, I, add language to read: "The agreement shall provide for periodic condition compliance inspections by Planning Department staff and that nothing in this section or the agreement shall be deemed to be a waiver of any property owner's rights to due process or to avoid unreasonable searches.";

The suggestion that Mr. Stone's addition of language suggesting "owner's rights to due process or to avoid unreasonable searches" will make the imposition of draconian measures agreeable is an obfuscation of what is still a recorded restriction on the use and enjoyment of property for the present owner and a deed restriction which may have a deleterious effect on the property in the future.

Due Process is both slow and expensive. Cases in point is the issue of Mr. & Mrs. Kloster who have been deprived of their rightful use of two houses in Santa Cruz for over 20 years while continually paying property taxes as if the houses are lived in, and Briarcliff Farm, in Soquel, whose owner has spent hundreds of thousands of dollars over a ten year period due to the abuse of power by Representative Beautz. The cases of abusive treatment of property owners at the hands of county bureaucrats are too numerous to recount here. Suffice it to say that one instance is more than enough for the hapless victim.

We must include the cost of argument at the local levels. Each request for a hearing at each level of local

5/20/2008

government is not only expensive but time consuming. That, of course, is another matter which addresses your violation of the "separation of powers clause in the U.S. Constitution."

The exorbitant cost of a permit and associated fees (inspection, re-inspection, etc) that have been imposed on the unsuspecting property owner is beyond belief by property owners in any other part of the state or country.

Our questions to you are:

1. Your election is based on approval by property owners. Why then do you constantly abrogate the rights of property owners to the legitimate use of their property?
2. What have you done to protect the rights of property owners against the overreaching coercive acts of government?
3. Have members of this Board instructed the planning director to write legislation which encourages renters to blackmail the owners of property they rent with threats of exposure to code enforcement action?

Our recommendation is that this Board rejects these amendments to the county code.

Further, we recommend that this Board ask themselves honestly: Is this the way we want to be treated by a government agent while trying to provide for our family?

Then require the planning director to take this one-foot thick, catch-22, rambling, undecipherable, unreadable code and rewrite it to give "assistance" to the property owner or future property owner in the building and renovation of their property - in positive language.

Regards,

Patrick Dugan, President
San Lorenzo Valley Property Owners' Association

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 9:35 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Andrew John & Colette Marie Farkas
McLaughlin

Email : colette.marie@yahoo.com

Address : Boulder Creek, CA
95006

Phone : Not Supplied

Comments :
Santa Cruz County Resident Property Owners
Boulder Creek CA

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95060

RE: May 20, 2008, AGENDA ITEM 97: Code Enforcement Program and consider proposed amendments to Chapter 1.12 of the County Code relating to code enforcement penalties and hearing officer procedures

Board of Supervisors:

We are a married widower and widow who have been capriciously and unconstitutionally harmed by the type of policies from the Planning Department that Item 97 is asking you to consider. We and other victims of Code Enforcement Policies have presented the Board and staff with much documentation. Thus, you have been repeatedly informed that residents have been significantly impacted by what Harold Griffith has documented are and remain unconstitutional Planning Department policies. We are aware that many residents who have been harmed by the Planning Department remain silent due to our shared belief that the Planning Department acts in retribution toward those who question its policies. We are writing at risk to ourselves to support Harold Griffin's thoughtful recommendations because we believe silence is far worse because not saying what needs to be said enables despotic government.

Planning Department actions against us include sent inaccurate statements from Planning Staff, being overcharged for services resulting from a questionable bid that was awarded to a contractor who provided no evidence that his firm was in compliance with County mandated labor practices, charged hundreds of dollars for Planning and Legal staff wasting time for unfruitful activities and have copies of court documents where County Legal staff made inaccurate statements. Allowing more of this to continue is legally and morally wrong and residents deserve better from their government.

Planning Department's policies include increasing punitive actions against repeat offenders. Should higher Courts be required to intervene in the interest of the public, it is expected the Courts will have a similar

5/20/2008

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intolerance toward the County's repeated mistakes. The County already lost in higher Courts by choosing to ignore Harold Griffin's previous documentation of wrongdoing. Should the higher Courts need to overturn these unconstitutional practices that damage residents it is hoped that the Courts will not further harm residents. Individuals responsible for any costs to the County are the ones that need to be held accountable for not demanding needed revisions.

As residents of this County we want you to prudently care for the public's and funds. The County is obligated to comply with State and Federal laws, regulations and constitutional. It is irresponsible for our County to use staff time for another legal battle that is not in the interest of the public. Please heed Harold Griffin's advice.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 8:49 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Ann Stout

Email : annstout48@gmail.com

Address : 121 Pasture Rd
Santa Cruz, CA 95060

Phone : 831-425-1768

Comments :

I am objecting to this proposed ordinance as being illegal and obtrusive. Our community doesn't have the resources for these social engineering programs or political vendettas. These deed restrictions would jeopardize property owners title to their property as well as have the to acquire a loan on the property due to these deed restrictions. We read with interest the abuse in case of Briarcliff Farms and Hilary Falconer. Ann stout

5/20/2008

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CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 9:50 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Bruce Korb

Email : bruce.korb@gmail.com

Address : 910 Redwood Drive
Santa Cruz 95060

Phone : 831-426-8007

Comments :

This proposed ordinance, if implemented as envisioned, is highly likely to conflict with concepts like "unreasonable search and seizure" and "probable cause". The mere existence of an "auxiliary structure" would be sufficient reason for invading one's property and examining the apparent use of a building. Uh, uh. Wrong. This needs some careful rethinking. Thank you.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 9:51 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Andrew John & Colette Marie Farkas
McLaughlin

Email : colette.marie@yahoo.com

Address : Boulder Creek, CA 95006

Phone : Not Supplied

Comments :

Revised comment--please replace earlier comment we sent with the following letter:

RE: May 20, 2008, AGENDA ITEM 97: Code Enforcement Program and consider proposed amendments to Chapter 1.12 of the County Code relating to code enforcement penalties and hearing officer procedures

We are a married widower and widow who have been capriciously and unconstitutionally harmed by the type of policies from the Planning Department that Item 97 is asking you to consider. We and other victims of Code Enforcement Policies have presented the Board and staff with much documentation. Thus, you have been repeatedly informed that residents have been significantly impacted by what Harold Griffith has documented are and remain unconstitutional Planning Department policies. We are aware that many residents who have been harmed by the Planning Department remain silent due to our shared belief that the Planning Department acts in retribution toward those who question its policies. We are writing at risk to ourselves to support Harold Griffith's thoughtful recommendations because we believe silence is far worse because not saying what needs to be said enables despotic government.

Planning Department actions against us include sent inaccurate statements from Planning Staff, being overcharged for services resulting from a questionable bid that was awarded to a contractor who provided no evidence that his firm was in compliance with County mandated labor practices, charged hundreds of dollars for Planning and Legal staff wasting time for unfruitful activities and have copies of court documents where County Legal staff made inaccurate statements. Allowing more of this to continue is legally and morally wrong and residents deserve better from their government.

Planning Department's policies include increasing punitive actions against repeat offenders. Should higher Courts be required to intervene in the interest of the public, it is expected the Courts will have a similar intolerance toward the County's repeated mistakes. The County already lost in higher Courts by choosing to ignore Harold Griffith's previous documentation of wrongdoing. Should the higher Courts need to overturn these unconstitutional practices that damage residents it is hoped that the Courts will not further harm residents. Individuals responsible for any costs to the County are the ones that need to be held accountable for not demanding needed revisions.

As residents of this County we want you to prudently care for the public's and funds. The County is obligated to comply with State and Federal laws, regulations and constitutional. It is irresponsible for our County to use staff time for another legal battle that is not in the interest of the public. Please heed Harold Griffith's wisdom.

5/20/2008

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CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 10:04 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Bruce Korb

Email : bruce.korb@gmail.com

Address : 910 Redwood Drive
Santa Cruz 95060

Phone : 831-426-8007

Comments :

While we're at it, the new verbiage includes mobile enclosures (trailers and mobile homes). Since there is no duration mentioned in the ordinance, I am led to suspect that a friend or relative who brought one and stayed for a few days would trigger a violation. I am sure that is not the intent, but that would be the effect -- enforced or not. If you are going to include camping equipment in your ordinance, then you will need to distinguish between a visit and residential habitation. Like, for example, "60 days continuous occupation". (It would need to be short enough to make relocating that often inconvenient, but long enough to not be triggered by extenuating circumstances. "60 days" seems pretty close to such an ideal.)

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 10:17 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : vincent pastore

Email : permasc@sasquatch.com

Address : watsonville

Phone : 831-722-4504

Comments :

Dear Board,

I am appalled that you are even considering any new and improved code enforcement tactics. I have friends who have suffered greatly under the old rules, which are harsh enough. I think there needs to be public dialogue and that county planning and code enforcement needs to be fair, legal and give landowners options, and that you act with a high degree of integrity and a little compassion as well.... these are hard times we living in now!

Vincent P. Astore
watsonville

5/20/2008

A handwritten signature, possibly reading 'V. Astore', is located in the bottom right corner of the page.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 1:53 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Bert Lemke

Email : bert@seascape-design.com

Address : 258 Farallon Court
Aptos, California 95003

Phone : (831) 688-6642

Comments :

Dear Board:

I am disappointed to see a proposal expand Code compliance. It is not necessary and it will not solve the building permit issues. I hope that you will not approve this proposal.

Thank you! Bert Lemke

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 4:32 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Joe Pernyeszi

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

The new proposed "code enforcement" must be the work of a "control freak", it is so intrusive and completely defies the 4th AMENDMENT to the CONSTITUTION. Nobody in his right mind would tolerate the proposed intrusion into his life, complete strangers loitering around his property. This proposal is against every principle the FOUNDERS recognized as the fundamentals of individual liberty, our God given rights. God has been banished and the control freaks are trying very hard to banish our liberties as well. Whoever came up with this shameful document should be investigated and charged with subversion for trying to corrupt our system of government.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 8:58 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Charles Norman

Email : Not Supplied

Address : Not Supplied

Phone : 408-353-2519

Comments :

This appears to be a furtherance of policing authority by the planning department. . . .a department that already has too much authority and should be given no more. Please rein in the department instead of enhancing it growth.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 5:16 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Ira Felzinger

Email : Not Supplied

Address : Santa Cruz, CA 95060

Phone : Not Supplied

Comments :

From today's Sentinel Hits and Misses Opinion. The Board of Supes and Planning Department have definitely "missed" on this one.

Miss: Planning department crackdown;

. The decades-long battle between the Santa Cruz County Planning Department and citizens who are just trying to comply with endless red tape and get permission to build something on their property showed signs of abating, so to speak, earlier this year. In April, the department announced it was going to relax some of the rules and regulations regarding smaller residential structures. But now the department is saying it also plans to crack down on illegal structures, and seek stiffer fines for some property owners who are renting out these non-permitted buildings. The law is the law -- but the county surely realizes that the reason there are so many illegal structures is the cumbersome and legalistic planning regulations that have long provoked deep distrust by property owners about unwarranted government regulations. A crackdown will do nothing to quell this distrust and antagonism.

Santa Cruz Sentinel May 20, 2008

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, May 19, 2008 11:53 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Nickolas Peros

Email : mrrnickperos@gmail.com

Address : 560 Monte Sereno
Watsonville, Ca. 95076

Phone : 831-801-9224

Comments :

I very much object to the proposed changes to County Code Chapter 1.12 and ask that you vote "NO" to the changes as proposed. The two major enforcement provisions that would establish an Administrative Hearing process with huge penalties, confiscation of "illegal rents" and the gestapo type inspection program portray a "police state" form regulation that is simply ugly and likely unconstitutional. I question the mindset of county employees who would design such "police state" changes. That it could happen on your watch as Supervisor's would be a very sad epitaph to your terms of office. Not only to the officials propose police state methods, they want to shame the persons found in violation with public stories to humiliate them into compliance. Is this the type of government we all wish to raise our children and grandchildren in?

The Planning Department already had strict powers as tools to accomplish their work. If clarification needs to be done, by all means do this, but do not initiate the police state powers as proposed. Vote "no" on these revisions.

Bill McGrath
478 Casserly Road
Watsonville, CA 95076

(831)761-8390

May 19,2008

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95060

AGENDA: April 20,2008 -- ITEM : Public Hearing
Subject: Code Enforcement & Deed Restriction Opposition

Members of the Board,

We want to eliminate the wording below:

~~Santa~~ Cruz County Code - Section XIV (e) Required Conditions states:

1. The agreement shall provide for periodic condition compliance inspections by Planning Department staff. The agreement shall be written so as to be binding on future owners of the property, include a reference to the deed under which the property was acquired by the present owner, and shall be filed with the County Recorder. Proof that the agreement has been recorded shall be furnished to the County prior to the granting of any building permit permitting construction on the property.

2. The Planning Director may charge a fee, as stated in the Uniform Fee Schedule, for the cost of periodic condition compliance inspections.

(3) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the Planning Department proof of recordation of a Declaration of Restrictions containing reference to the deed under which the property was acquired by the present owner and stating the following:

(B) The Declaration shall include a provision for the recovery by the County of reasonable attorney fees and costs in bringing legal action to enforce the Declaration together with recovery of any rents collected during any occupancy not authorized by the terms of the agreement or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

We believe these deed restrictions, automatic inspections, inspection fees, and attorney fees are illegal and in conflict with and state laws.

We are interested in Code Compliance reform but at this we have no information about what you intend to do on this issue but we support a complete reform of the current process.

Small scale residential unit restrictions/ Code Compliance

#97

Robt Hall

Naomi Manger

John Drenrich

Peter Jensen

John Quinn

Kyle Rig

Phil Crouch

Cassidy Lamero
Victor Kong

119 SAN JUAN RD
WATSONVILLE, CA 95076

255 Smith Rd.
Watsonville, Ca 95076

74 Monte Vista
Watsonville, CA 95076

34 HAZELWOOD CT
WATSONVILLE CA 95076

~~146 KENNY AVE~~
SANTA CRUZ CA 95065

1231 HARPER ST
SANTA CRUZ CA.
95062


525 Green Valley Rd Watsonville
95076

39 La Hacienda Dr. Watsonville
95076

1314 Lincoln St 95076

190 Marshall D Freedom

361 Buarwood Dr Watsonville



~~Ing Estrada~~

Robert M. Sh

Janet Estrada

Ullrich Sym

Mundo de los roles

Arnold Hanna
S. J. O.

North Estrad

\mathbb{N}^*
 \mathbb{N}

.....

140 AIR DEL Rd, Watsonville
233 Peckham Rd
Watso. Ca

925 ACORN WAY
WATSONVILLE CA 95076

447 Mt. Nipawa Road
Watsonville, CA

41 Litchfield Ln
Watsonville CA 95076
1927 11th motorcycle

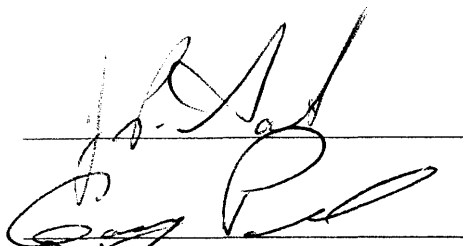
Watsonville Ca 95076

557 Calakwas Rd, Waterville
C 35171

114 College RD CA 95070
WATSON CA 95070

789 GRIED VAL. BULLATS

140 Hazel Dell Rd


Gary Peixoto
Rodney Misumi
David P. StolicH
Ken DobleK

James P. Scurich

GARY Peixoto

Rodney Misumi

DAVID P. STOLICH

KEN DOBLEK

Mark Pista

~~Don Pista~~

Steve Pista

John Pista

4/1/2020

FAX TRANSMITTAL

Date: May 19,2008

Number of Pages: 6 total
(including cover)

To: Tess E. Fitzgerald, Clerk of the Board
701 Ocean Street, Room 500
Santa Cruz, CA 95060
Information: (831) 454-2323
Fax: (831) 454-2327

From: Rev. Oracle and Mr. Elan
831.479.8828 Fax

Re: Agenda May 20,2008 – Item 97: Code Enforcement Program

Dear Ms. Fitzgerald,

Thank you ~~for~~ your assistance in preparation for the Board of Supervisors public meeting tomorrow. Kindly distribute copies of our very informative fax letter for the above item 97 to all Supervisors before the submission deadline. We will be attending the meeting.

Have a nice day.

Q7

May 19, 2008

Rev. Oracle and Mr. Elan
P. O. Box 969
Aptos, CA 95001-0969

Board of Supervisors
County of Santa Cruz
701 Ocean St., Rm. 500
Santa Cruz, CA 95060

Re: Agenda May 20, 2008 – Item 97: Code Enforcement Program

Members of the Board:

First, the legal standing as stated in Harold Griffith's May 15, 2008, letter needs to be abided by. The Board of Supervisors must be educated on the limits of its authority.

Second, we recommend an immediate moratorium on snitch Red Tags or Code Compliance searches for red tags due to the abuse of the system and high volume of illegal and unsubstantiated red tags served on property owners and the use of red tags for low priority violations. Red tags originally were intended for safety, to notify the public not to enter uninhabitable buildings. We ask for a vote on the moratorium today, effective until a full audit can be made or this vote is entered as an Agenda item for the next Board of Supervisors public meeting.

Third, we recommend a code compliance audit for every red tag that is currently open as well as those that were expunged over the last ten years. There are thousands that have been misused and a full review of each and every one is required. An independent unbiased firm approved by a committee of not less than four citizens, can approve and monitor the audit creating a list of reforms required. Independent legal counsel approved by the citizen committee will review breaches found by the County Planning Department and Code Compliance for eligibility for full refunds of fees, costs and expenses. Others will require legal recourse for additional awarded damages.

Fourth, the following reforms (pages 3 – 5) are easily determined from minimal research of the habits, practices and culture direction by current management. We recommend these be integrated as soon as possible, or considered for integration into the audit review.

Fifth, the Board of Supervisors shall give no input nor interfere with this independent audit except to supply any request for records by the independent audit firm or citizen committee.

Sixth, the vote today for Item 97 to provide 90 days for property owners to respond and correct red tag violations does not resolve the serious and voluminous history of Code

Compliance issuing unsubstantiated red **tags or red tags for** violations that **only** require a citation **or small** monetary **fee**, A new **detailed (un-vague)** structure for **Code Compliance** to know when **to use or not use red tags needs** to **be designed and** applied. Recommendations are included **below** in more **detail in pages 3 - 5**.

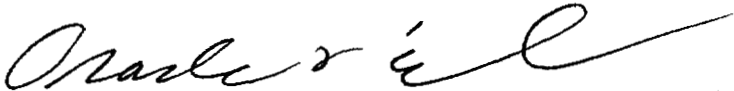
Seventh, the Planning **Department has** abusively turned **the** term “discretionary” into **“capricious”** treatment of permit applicants based upon dislike **of** property **owners** for standing up for their First Amendment Rights. Such discretionary power was originally **intended to be used in favor of property owners when it** would create a hardship or the law was **vague** or non-existent. Today, **the** Planning Department culture is to use discretionary (permits **or** red tag determinations) for financial fraudulent profit or **revenge** for personality clashes-

Eighth, often County Counsel remains silent during Board of Supervisor hearings While faws are being **breached**. **County Counsel** must **instruct** the Board of Supervisors when such breaches are **taking place even** if it is against the wishes of the Board of Supervisors. If **such** breaches are shown **by** “letter” to exist prior to or after a **vote**, the **agenda item will be under** protest and reviewed and reopened for public notification and **input**.

We strongly believe understanding and integration of the Reform Recommendations **is** necessary. We know from experience, **having been** required to unnecessarily **apply** for driveway gates and **fencing**, which **has** been pending **for 2.5** years.

We provide this document **so** justice takes precedence over “discretionary abuse”. Our Founding Fathers intended for government to **remain** small **and** civil servants to serve the public.

For a newly created future that amends the past,



Rev. Oracle **and** Mr. Elan

May 19, 2008 PLANNING AND CODE COMPLIANCE REFORM RECOMMENDATIONS:

- 1 The **County** Planning **and** Code Compliance Departments must ascertain and completely vet any complaints against **a** property. They must also legally substantiate, with **measurable** and technical referenced standards in fixed terms, any violations on any property owner before referring them **to** Code Compliance. The sheer citing of **the Ordinance/Code does not satisfy** the **legal** definition of substantiation of hazards, dangers for any other reason used by the County Planning Department per Supreme Court rulings.
- 2 **Any** Red Tags that have been issued for **structures** built prior to approximately 1955, when the Planning Department was birthed, are exempt from such red tags. A full list of such properties **shall** be made available to **the** Audit firm **and** **citizen** committee **for the** audit.
- 3 When **a Notice of Violation Red Tag** is served upon a property owner, an advance appointment must be made and they must show up on **a** timely basis. No open and **free** entry without agreed **notice** shall **occur**. Code Compliance or such personnel shall be unarmed **when** serving Red Tag Notices of Violations to all property owners in Santa **Cruz** County. Code Compliance personnel must not assault **property** owners. Code Compliance personnel also shall not threaten property owners verbally **or** in written communications. Code compliance personnel who have done such or do so in the future, shall not be allowed to **serve** Red Tag notices of violations or inspect properties. The red tag shall automatically **be** voided in **response to a no appointment** confirmation, to **weapons/arms** hidden or exposed, as they are not allowed, or **to** an **assault of any** nature. (**Not** even the police can search without **a** warrant.)
- 4 The Red Tag Notice of Violation must contain the entire Ordinance **at** issue and be given to the property **owner at the same time as the NOV**, **so** the property owner(s) **is/are** fully informed of the entire Ordinance. Recordation of red tag notices of violations shall **NOT** be **used for** priority "B" **or** "C" non-enforcement violations. Ordinance 1.12.070 Code Violation - Civil Penalties and 19.01.030 Enforcement of Penalties and 1.12.040 Penalty for **Infractions** alternatives **must be obeyed** by the Planning **Department** and Code Compliance. Small fees **and** citations for true violations have been ignored and the Planning Department and **Code Compliance jump** directly to **the** most severe penalty of issuing Red Tags that are mostly unsubstantiated.
- 5 A Red Tag was meant to be used to protect the **public** from unsafe dilapidated structures and **the** County is using Red Tags for revenue preying for all violations against citizens Constitutional rights and at great expense to all; limiting the ability to refinance, sell the property and at great cost of fighting and educating the Planning Department for removal.
- 6 **Planning** Department entrepreneurial billing called "At Cost" initially does not reveal to property owners how extensively **and** without substantiation the Dept. can overcharge property owners and extend the process for years/decade. **Any** billing should not be fraudulent or repetitive of previous billings by management **and** staffers repeating tasks and meetings **to** increase such billing. Staffers must abide by the fixed **terms of the Ordinance** and not **use** independent prejudice **toward** property owners and remain **working** with true and **verifiable** facts.

- 7 Planning Department shall return to flat rate fees for all permits. The Planning Department has abused the "At Cost" **billing** system and used it for flat fee permits fraudulently for building their **business**. As a penalty and balanced punishment, a return to flat **fees** developed by the independent audit **firm** and citizen committee shall be made and abided by. Inflationary increases will not be allowed automatically and must include reductions **for** stagnation periods resulting in stagflation.
- 8 Permits, when applications are made, **are** being automatically assigned "discretionary **permit**" status **at intake** with the hyphen designation after the first two digits. **Most** are not discretionary permits as Level I-III applications and the abuse **of** discretion by this practice has **to be** stopped. Level I-III permit applications **are** administrative – ministerial and not **subject to** discretion. **The** audit will review the past and current permits for misuse of permit intake number with hyphens designating discretionary, which should not **be**/should not have been. These **property** owners shall be contacted for review of their treatment by the Planning Department and Code **Compliance**.
- 9 The County Planning Department shall add within 60 days, a **web** page section, **well** identified on **the** home **page**, to click **on** that lists all open and past lawsuits against the County for the past ten **years** in **order to inform** **the** public and allow the audit firm **and** citizen committee to correlate and compare planning department patterns of **behavior, treatment of** applicants and petitioners and inside culture for proposed reforms. The actual Complaints and Answers to Complaints shall be provided to the audit teams.
- 10 We petition for a **full audit of** the **Code** Compliance Dept. to commence within 60 days by an independent accredited **firm** of no less than four people, approved by a Citizen Committee, **also** made of not less than four people, to flush out other illegal and erroneous Red **Tags already** issued or about to be issued on other property owners (**subject to** moratorium). **The** Citizen Committee **shall** consist of the most active citizens who have protested **or** sued for justice and proper treatment and more than four are presently available. This audit shall take approximately **six** months and **be paid** for by the County **of Santa Cruz**. If the Citizen Committee **sees** any **bias by** the audit firm hired, **a** different audit **firm** will **be** assigned and **a** new audit will begin at additional cost to the County. The Citizen Committee shall have no less than one person present **at** all times of the audit firm operation and up to all four or more members. Monthly updates of the Citizen Committee shall be posted on the County Planning Department website on the home page well advertised **for** the public to easily locate. The Planning Department **webmaster** shall **post such** monthly updates **and** final audit in a timely manner of no less than **5 working** days from submission **of** such information.

Summation

The **Planning** Department has collected tens of millions of dollars unlawfully to grow its business and **has** increased restrictions unnecessarily on property owners. Every member of the public **who** has **been stalled** and **encumbered in the process by being required** to provide information not required, is entitled to **a refund** and damages.

The Planning Department must provide public notices in at least two of the largest circulation newspapers in Santa **Cruz** County for two weeks **so** that the public can come **forward** and make submissions to the audit **team**. Every member of the public who the County intentionally misled **through** errors and/or omissions and in regards to their right **to appeal is** entitled **to** damages for having their due process civil rights violated.

Government Code requires that fees be reasonable. **County** officials frequently make up rules **as** they **go along**, e.g. requiring information that is not required, then charging a **fee** for review of **that** document and then not relying **on** the information **and** just creating excessive **cost** and extra billing. Information has not been supplied to the applicant **by** the Planning **Department** which should **be** supplied, **creating** a cumbersome **and** long ordeal into years rather than the expected State requirement of 30 days. This practice occurs even on the simplest or most repetitive types of permit requests that **one** would think the Planning Department would have the training to fulfill within the 30 day required time period of the California Permit Streamlining Act. The numbers of lawsuits against the **County** Planning Department are greatly increasing demonstrating that positive change and reform for the **benefit o**f property owners' must begin to take place.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 5:55 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Betha King

Email : Not Supplied

Address : Ben Lomond

Phone : Not Supplied

Comments :

Santa Cruz--The Gestapo of the West

by Ronald A. Zumbrun

Summary: Known as the bastion of progressive liberal thinking, Santa Cruz, California has become totalitarian in its approach to land use planning and property rights. Those who curry favor get permits and those don't get punished.

Originally published June 2000 Viewpoint

FULL TEXT : Santa Cruz County is a lovely coastal community located 62 miles south of San Francisco. It is the gateway to the Monterey Bay National Marine Sanctuary and brags about 29 miles of coastline, world-class surfing, and over 43,000 acres of maintained public lands and park lands, including miles of challenging trails for equestrian and mountain bike users.

The largest employer in Santa Cruz County is the University of California, followed by the county government. Influenced by the University's philosophy, Santa Cruz is well known as an extremely liberal community.

Over time the community has displayed socialist and totalitarian leanings when it comes to private property rights and land use planning. Those who are "in" and "favored" reign, while those who are not are forced out of the community by government's use of methods such as favoritism and selective enforcement.

Property owners have been run out of business because they could not obtain necessary permits. Many are forced to sell to a conservancy group at a great loss. Later, once the property owners are long gone, the conservancy is awarded all necessary permits. This restores the value of the property.

This kind of activity is not uncommon. It is difficult to understand how those who are favored have no problems whatsoever and those who are not have their properties red tagged even though their units may be up to code. In fact, the county is full of illegal or non-permitted structures which have not been targeted.

County Supervisors are well known for expressing displeasure with those they are out to "nail" or drive away. Frequently, political or philosophical vindictiveness is aimed at someone who supported the opposing candidate or refrained from supporting the winner.

County employees blatantly ignore trespassing laws while conducting property inspections. In addition, fees

5/20/2008

Y7

are imposed for all of the time spent by government concerning private property. This includes all internal and external meetings, as well as all time spent harassing the property owner whether or not the motivation was justified. When there is staff attrition, everything starts all over again. In order to cover these anticipated expenses, the county often requests a blank check from the property owner seeking a permit.

The county regulators frequently fabricate their charges and attempt to break down the property owners in the process. This appalling behavior by government toward property owners does not belong in a free country.

One of the grossest cases involves Frank and Ellen Kloster, who in 1978 were able to obtain two building permits from the City of Santa Cruz for structures that would combine as a duplex. The purpose of this property was to provide rental income for the Klosters' elderly years. At the completion of construction, they obtained their final inspection from the Building Department and awaited their Certificate of Occupancy. Everything was proceeding as planned--so they thought. Then the Planning Department, which lacked jurisdiction at that time, got into the act and prevented the issuance of this ministerially required occupancy permit. As a result, the city proclaimed the Klosters to be "permit violators who deserved to be punished." It didn't stop there. The city disconnected the water, sewer, and electrical lines to ensure that the dwellings would not be used. The two dwellings have remained vacant for over 20 years.

Despite the fact that the city has denied the Klosters all economical and viable use of their property, the Klosters have been required by the county to pay annual property taxes in the amount of \$2,558 based on the full value of their property (as if it were being used). The Klosters have been paying these property taxes out of their \$10,940 annual income from Social Security. Unfortunately, there are no pro bono legal services in Santa Cruz to assist property owners oppressed by government.

Even after the Klosters obtained a successful court ruling as to one of the structures, the city then demanded a new inspection and insisted that the property be brought up to current code standards. The Klosters twice have unsuccessfully challenged the unfair tax imposition, only to be told that the removal of the restriction is within their power (even though not within their financial resources) and that they could comply with the city's requirements.

Revenue and Taxation Code § 402.1 provides in part as follows:

"(a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected...

"(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses...

"(g) It is also hereby declared that the further purpose and intent of the Legislature in enacting this section...is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government.."

Under the subject court rulings, the Klosters would have to waive their constitutional rights before qualifying under Section 402.1. The courts have held that a Certificate of Occupancy is a vested right once the final inspection is completed.

Even with this discouraging background, there is light at the end of the tunnel for the Klosters and other Santa Cruz property owners. On February 23, 2000, the United States Supreme Court handed down its lightly publicized decision in *Village of Willowbrook v. Olech*.

In this case, Mrs. Olech and her late husband had lost their water source--an old well. They requested the Village to attach them to municipal water but the Village imposed a condition that they first grant a 33-foot easement. The customary easement was 15 feet. The Village wanted to widen the road in front of the Olechs' property. The Olechs refused and eventually the Village relented. In the meantime, the Olechs had no water and consequently suffered damages.

Mrs. Olech brought suit alleging the Village had denied them equal protection under the Fourteenth

Amendment. She alleged that the Village had "substantial ill will" toward the Olechs because of an earlier suit they had won.

In ruling, the United States Supreme Court answered the question of whether the Equal Protection Clause would protect a "class of one" holding that the number of individuals in a class is immaterial. The Court further held that the plaintiff had an equal protection claim when alleging that she was "intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment."

The Seventh Circuit Court of Appeals also had ruled that the Olechs sufficiently alleged baseless hatred. Citing a 1995 California case, the court held that "a plaintiff can allege an equal protection violation by asserting that state action was motivated solely by a "'spiteful effort to 'get' him for reasons wholly unrelated to any legitimate state objective." The Supreme Court found it unnecessary to reach this issue relying on the "irrational and wholly arbitrary" conduct by the Village.

The delay of the Olechs' request for water was three months. In the case of the Klosters, it has been over 20 years! The Olech case when applied to the usual conduct of Santa Cruz regulators is the perfect precedent to attack the spiteful and selective conduct regularly exercised in Santa Cruz County. At last, there is a chance to eliminate such unfair and unconstitutional activity. The test now will be whether the courts have the courage to follow this United States Supreme Court precedent in cleaning up the improper practices in Santa Cruz County.

Ronald A. Zumbun is Managing Attorney of The Zumbun Law Firm, a Sacramento based public issues firm. This article was originally published in the June 2000 Viewpoint.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 8:01 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number : 97

Name : Timm Boege

Email : Not Supplied

Address : 225 Redwood Heights Rd.
Aptos

Phone : Not Supplied

Comments :

I am a Santa Cruz County taxpayer and property owner.

I am 100% opposed to all Supervisorial land use proclamations which remove "Due Process" from Building Code enforcement procedures and believe that you could be causing our county waistful legal fees to defend any new ordinances limiting "freedom of use" of private property. This will be considered a "taking" and you will loose in costly court challenges (with our money) and in the mean time Santa Cruz County residents will loose the Freedom that has made America Great!

Not not pass ordinances that take Federal Constitutional rights away from property owners. Be prepared, we will PASS Prop 98!

VOTE NO on:

New policies under consideration:

1. Broadening the definition of a violation.
 2. Stepping up "proactive" code compliance inspections and enforcement.
 3. Increasing financial penalties and penalty gathering programs.
 4. Escalating legal sanctions against property owners
 5. Publishing red tagged families in the press to "deter future conversions".
 6. More authority for their Kangaroo Kourt (internal hearings)
 7. Mandatory Deed Restrictions which could affect property value
 8. Periodic, perpetual, announced inspections without warrant or due cause
 9. Fees charged to the homeowner for the county's compliance inspections
 10. Allowance for the county's attorney fees and cost of lawsuits.
-

If these are passed, I will work for the next ten years to replace each of you on the Board so that our Planning and Building Department is a TOOL FOR the citizens, not AGAINST the people you work for.

Sincerely, Timm Boege

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 7:56 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 5/20/2008

Item Number : 97

Name : Rose Marie McNair

Email : realrose@norcalbroker.com

Address : Not Supplied

Phone : 831.476.2102

Comments :

5/20/08 Board of Supervisors Meeting Agenda Item #97

Honorable Supervisors,

This agenda item is entitled "Code Compliance Workshop". In workshops that I have attended, the agenda and platform are quite different than what we are presented here today. A workshop is just that: the ability of the parties to work together to seek solutions with a sort of "back and forth" dialogue. That will not be the case in this format. Instead, each member of the public will state his/her position--with no feedback from the Supervisors--until all the public members have spoken. Then, the Supervisors will speak and vote on these issues, immediately, and without further discussion from the public to rebut the Board's discussion. In the true workshop format, the results of the public group would be assimilated, reviewed and THEN presented as a completed work for adoption.

It is also interesting to me that the County's Budget recommendations from the CAO are presented as an agenda item #90 previous to this "workshop" item #97. Although the actual budget materials are NOT included in the agenda packet--only the cover page is submitted--the Board will most likely approve the recommendations just in time to hear code enforcement proposals. I don't believe that this process provides enough public input.

I am going to quote verbatim from Agenda item 90 under the paragraph about Land Use and Parks: "The Proposed Budget for the Planning Department recommends holding 6.5 vacant positions unfunded which will result in service delivery reductions, as staffing resources will need to be shifted among the department's programs. The department's goal in 2008-2009 is to enhance core services and to refine the permit processing and code enforcement programs. Additionally a primary focus of the department is the enhancement of affordable housing assistance efforts including the completion of the current Housing Element Rezoning Program, preparing for the next Housing Element and working to develop additional affordable housing opportunities within the County." So, if I understand this paragraph, no additional people will be hired in these "unfunded" positions, and current staff will work more aggressively on permit processing and code enforcement. That leads me to the conclusion that this code enforcement program is a REVENUE ENHANCEMENT PROGRAM! Further, because the entire budget is "on file with the clerk", no line item on the PROPOSED BUDGET REVENUES FROM CODE ENFORCEMENT FINES, FEES, AND OTHER COSTS ARE KNOWN AT THIS WRITING! And, how much will permit fees increase?

The staff report addresses and admits to the complexity of the code compliance program--referring only to the rather "complex system of checks and balances" affording protections for due process. The staff report

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says: " These protections and due process requirements are constitutionally provided and have also been established through the courts." So, how can due process be served and the constitution upheld when the County is proposing "field work" investigations by Planning staff...Isn't that precisely in violation of the 4th amendment regarding illegal searches? I mentioned this during prior meetings regarding the mandate for a permit applicant to agree to PAY for periodic inspections in a recorded deed restriction document.

I just returned from Washington DC and as a United States citizen, stood in awe at the amazing strength of our country. The buildings present themselves as architectural memorials of stately grandeur--and many are over 150 years old. There were no planning departments then, and the idea that code enforcement was necessary was unheard of, and frankly absurd. What has happened that our local governments have gone past their authority and are attempting to usurp American property rights, and to literally ignore the United States constitution founded to protect its citizens? Local government is supposed to be there to work FOR the people, but I am wondering if we, the public, are now working for government.

If the Planning Department was working for the people, without this adversarial, draconian enforcement proposal, and instead, an easier, user friendly application process were available, this code enforcement requirement wouldnt be necessary--just as it wasn't necessary when our forefathers created the constitution.

Please place this letter on the record.

Rose Marie McNair
(831) 476-2102

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 7:43 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number : 97

Name : Gary Wrathman

Email : gwrath@mtaonline.net

Address : Not Supplied

Phone : Not Supplied

Comments :

Have read your suggestions regarding the enforcement of local laws regarding property uses in the County. Your ideas scare me to death not because I am not in compliance but because it smacks of totalitarianism. It seems to me that you have better things to do other than hound property owners in the name of saving the world. Quit being so elitist and fix the roads and cut spending where you can. You give people a headache just reading about your goals. We don't live in a communist country so quit trying to act like communists. Be good americans and read the Constitution and realize that it was written by some of the most learned men in America in 1776. It is well thought out and will keep this country free. Thanks for your time.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 7:43 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number : 97

Name : Catherine Moore

Email : cateymoore@mac.com

Address : 1700 Eagle Tree Lane
Felton, CA 95018

Phone : 831-335-4764

Comments :

Congratulations! You have failed Constitutional Law and Psychology 101 in one swoop.

Your proposed rules butt up hard against the Fourth Amendment. (The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.) These rules fly in the face of the "secure in their houses", "unreasonable searches and seizures" and "no warrants shall issue, but upon probable cause" clauses. I don't see how you can hope for this to stand up in court.

You also fail in psychology. You claim to be trying to make getting these permits easier and more painless. Your penalties are just going to drive people further back into the woods. They are not about to come in for a permit with that hanging over their heads.

You already have a reputation to overcome. If you really want to have some control over the building in the County, you are going to have to significantly relax the penalties, become friendly and easy to deal with and wait for the distrust to dissipate. With your past history, that's going to take a long time, a really long time.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, May 20, 2008 7:31 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number : 97

Name : Jim

Email : planningreform@aol.com

Address : Not Supplied

Phone : Not Supplied

Comments :

Your actions have helped to awaken a large body of Santa Cruz County residents who are aware that the leadership at the County building is not leadership at all. It is Fascism and Totalitarianism. The corruption of this regime surpasses that of any time in Santa Cruz County history.