

ORDINANCE NO. _____

**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 applications 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 consider 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 alleged violation(s) of the county code;
- ii. Orders the payment 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 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 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

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 3:38 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Aaron Hinde

Email : ahinde@sbcglobal.net

Address : 216-B Mt. Hermon Rd.
Scotts Valley, CA 95066

Phone : 831-420-7397

Comments :

Dear Mr. Stone,

I am writing in opposition to consent agenda item #10 for tomorrow, June 10, 2008. **As** a tax paying business owner in your district, I am sick and tired of an overbearing county government infringing on personal property rights. County government should be working on resolutions to resolve the red tag problem in this county by understanding and working with the needs of county residents, not devising means to further penalize and criminalize even more county residence. Its time we had leadership on the board that worked for the people to create a win-win environment that didn't have citizens cringe every time the "planning department" is mentioned in conversation. Lets stop seeing things in black and white and work synergistically with concerned parties.

Sincerely,

Aaron B. Hinde, DC

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 3:32 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Libby Huyck

Email : libonpv@aol.com

Address : 2947 Pleasant Valley Rd

Phone : 724 5111

Comments :

1. Like some property assessment tax ballots that have also been "lost in the mail" countless times, the idea of not mailing "notice of violations" but merely posting on the property, is even worse. This is improper notification of property owners. Registered mail only for this type of important announcement please.
2. I think it is not right, and perhaps even illegal, to collect fees for "future" purposes. Do you know of ANY business that does this??? Charging for a service/product at the time of the service/purchase is the only fair way to collect a payment.
3. Unannounced inspections violates the U.S. Constitution. Have you heard of the 4th Amendments. Check it out!!

Generally, I think it's absolutely wonderful to see these changes because it will only make housing more UNAFFORDABLE, thereby increasing the value of my home. So you can only blame yourselves for the unaffordable housing crisis in this county.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 2:31 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : W. A. Colby

Email : allancolby@aol.com

Address : 59 Pinehill Road
Watsonville CA 95076

Phone : 831 768-1756

Comments :

Changes to County Code submitted by the Planning Department on May 20, 2008 are abusive and I oppose them. I urge you to not enact these changes into law.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 2:55 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : james colip

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

I object to all the fines and new laws proposed by the planning commission. The fines and civil penalties are unreasonable and onerous and serve no purpose greater than the current rules and laws perform.

signed

a concerned citizen

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 3:07 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Vaughan Johnson

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

I urge you to vote NO on the consent agenda item #10 June 10, 2008: 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 (approved "in-concept" May 20, 2008 - item number 97)

Ignoring substantial opposition, the Planning Dept. approved what I believe to be a violation of the 4th Amendment protections and an unlawful extension of authority to trespass upon private property, without due process or warrants issued by a court of law.

If you vote to adopt this measure, it will possibly result in class action lawsuit against the County by property owners and result in costly legal fees and wasted effort, that our county cannot afford.

Unfortunately, any legal advice on the matter may involve a conflict of interest since your attorneys would greatly benefit if they end up gaining fees from defending such illegal ordinances in court.

Please read the ordinance and also read the US Constitution before you vote.

Respectfully Yours,
Vaughan Johnson

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 5:42 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/10/2008

Item Number : 10

Name : Harold Griffith

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

Harold Griffith
P.O. Box 96
Freedom, CA 95019
(831)763-0607

June 9, 2008

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

AGENDA: June 10, 2008 -- ITEM 10 Code Enforcement Penalties.

The Planning Department is suggesting that you violated your oath of office by violating the State and Federal Constitutions. These code enforcement penalties are illegal because preemptive state laws can be made applicable to both building and housing code enforcement so local or special laws on the subject are void pursuant to Article IV § 16(b) and the local laws conflict with preemptive state laws Health and Safety Code § 17980 et seq. which this Board of Supervisors is not permitted to do.

INTRODUCTION TO PREEMPTIVE STATE LAWS

First of all, it should be remembered that Article XI § 7 of the state Constitution allows a local governments to adopt laws that are not in conflict with the general laws of the state. Of course, this means that local governments are prohibited from adopting laws that do conflict with state laws. Also, Article IV § 16 (b) states: "A local or special statute is invalid in any case if a general statute can be made applicable."

That said, let's look at the state building, housing and zoning law enforcement sections. Health and Safety Code § 17980 et seq. sets out the prohibited conduct for building codes and the following sections detail the enforcement procedure to be used by local governments to enforce building code standards and regulations. Penalties are set of in Health and Safety Code § 17955 et seq.

Health and Safety Code § 17958 requires local agencies to adopt the same codes stated in Health and Safety Code § 17922 or they become local law automatically. One of those codes required to be adopted by Health and Safety Code § 17922(a)(1) is the UNIFORM HOUSING CODE which is the only law in the state that can be lawfully used to abate violations of regulations on existing buildings by the code

6/10/2008

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enforcement program. An "existing building" is defined in the California Building Code as a building existing when this code was adopted. Since this Board adopted the California Building Code as of January 1, 2008, then all buildings in existence on that date were and are existing buildings. Violations of regulations concerning existing buildings must be brought pursuant to the UNIFORM HOUSING CODE or prosecuted by the District Attorney (who is not a planning department employee) as misdemeanors as stated in Health and Safety Code § 17922(g):

"A local government agency may not permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is substandard building or the violation is a misdemeanor."

The definition of a "substandard building" is found in Health and Safety Code § 17920.3. Health and Safety Code § 17920.6 defines the "Housing Appeals Board" which hears appeals of the requirements of the County regarding maintenance, change of occupancy including alterations, additions, repairs etc. Government Code § 53069.4 allows a local agency to make by ordinance a violation of a local ordinance subject to an administrative fine or penalty. It is obvious that since a local government is prohibited by Article XI § 7 of the State Constitution from adopting laws that conflict with the general laws of the state that the Legislature cannot grant to local governments the authority to make violations of building or housing regulation subject to administrative fines and penalties because the Legislature has already made specific and preemptive general laws in those areas. Health and Safety Code § 17995 states the penalties for building code violations.

Government Code § 53069.4 does allow the County to make violations of zoning laws subject to an administrative fine or penalty. However, when the County tries to expand the reach of zoning into regulation on existing buildings, then the County is again in violation of Article XI § 7 of the state constitution because regulation of existing building has also been preempted by the state.

CURRENT LOCAL PROGRAM

The current County Code Enforcement Program is a complaint generated enforcement program. When a neighbor or someone else complains of a zoning, planning or building violation a Code Enforcement Officers inspects the property, issues a notice of violation or "red tag" and gives the property owner a "citation" and a short time (20-30 days) to fix the violation without penalty. This time frame is simply too short because the average citizen cannot even understand the process in 2 or 3 weeks let alone get a permit in Santa Cruz County. In Santa Cruz County it usually takes 3 or 4 years to get a permit. The County holds a Hearing on the violation sometimes and sometimes doesn't. The County records the violation on the title and sometimes doesn't.

County Code Chapter 1.12 is the General Penalty and Enforcement procedures and provides for Hearing Officers, civil penalties (administrative fines), reasonable attorney fees, and enforcement costs. As explained above these provisions are illegal because they conflict with the laws when applied to building and housing violations because those areas of code enforcement are preempted by state law - Health and Safety Code § § 17980, 17995 and 17922(g). These state laws can be made applicable to the local housing and building code violations so the local ordinances covering these subjects are invalid.

County Code 19.01 Enforcement of Land Use Regulations is invalid because although it purports to comply with and be harmony with state law it actually conflicts with and weakens state law. Chapter 19.01.030 allows abatement as a public nuisance pursuant to County Code Chapter 1.14 when Civil Code § 3479 et seq. can be made applicable. Therefore, County Code 1.14 is invalid as per Article IV § 16(b), above.

County Code 19.01.40 "Right of Entry" is duplicative or in conflict with of Code of Civil Procedure § 1822.50 et seq. and since the state law can be made applicable the local law is invalid. County Code 19.01.30 (a)(4) is in conflict with state law if used to abate regulations on existing buildings as explained above. County Code 19.01.30 (a)(6) is unconstitutional because it violates DUE PROCESS of law in that it punishes someone for alleged violations before a hearing or trial. County Code 19.01.30 (a)(7) is invalid as applied to building and housing code violations because state law Health and Safety Code § 17985 can be made applicable. County Code 19.01.30 (a) (8) is unconstitutional because it allows a revocation of a permit in violation of DUE PROCESS of LAW.

County Code 19.01.30 (a)(9) conflicts with state law and is therefore invalid. County Code 19.01.30 (b) conflicts with state law and since state law can be made applicable this local statute is invalid. Basically, this whole Chapter is invalid because state law can be made applicable to enforcement of building and housing code violations.

ALTERNATIVE APPROACHES

One alternative approach to the current enforcement of unconstitutional local codes and ordinances would be to strictly enforce the state law applicable to building and housing code violations. A second part of a new approach would be if the County Planning Department would acknowledge that zoning ordinance only apply to the planning process and are basically only rules for evaluating submitted plans for conformance with local land use requirements so that a zoning and building permit can be issued. After a structure is built it doesn't need to conform to zoning law any longer. The idea contained in the County codes that there can be a zoning violation is pure poppycock because if that were true a permit would not be issued and the zoning violation would not exist. The concept of non-conforming uses exposes the stupidity of the concept of zoning violations. If a builder does not obtain a zoning approval and does not obtain a building permit, then the County can simply use the applicable state law to enforce the violation of construction without a permit.

CONCLUSION

This Board should direct the Planning Department staff to submit a draft ordinance removing from the County Code all local provisions that conflict, duplicate or weaken state law as required by Article XI § 7 and instruct Planning Department Staff to use only applicable state law when enforcing building and housing code statutes.

Sincerely,

Harold Griffith

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, June 10, 2008 7:38 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/10/2008

Item Number : 10

Name : SLV Property Owners' Assn.

Email : President@SLVPOA.org

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

Phone : 336-2005

Comments :

San Lorenzo Valley Property Owners' Association
P.O. Box 325
Ben Lomond, California

Board of Supervisors
County of Santa Cruz
701 Ocean St., 5th Floor
Santa Cruz, Ca. 95060

June 10, 2008, Agenda Item 10

RE: Adopt 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 (approved "in-concept" May 20, 2008 - Item Number 97)

Board Members

This is to inform the Santa Cruz County Board of Supervisors that the May 20, 2008 Agenda, Item #97 was not fully discussed before the Board took action to approve "Two items." There are over 16 major changes to the county code in that agenda item that were approved without any discussion or debate.

At the May 20, 2008 Board of Supervisors meeting, the Planning Director was asked by members of the board just exactly what issues they were acting on. He said there were only two items in Agenda Item #97 on which to take an action.

One of three things happened during the discussion of Agenda Item #97 at that board meeting. Either (1) the Planning Director misled the Board of Supervisors about what was in the agenda item, (2) the Board cherry-picked two items to discuss and act upon, or (3) the Board of Supervisors and the Planning Director previously discussed the item and agreed on just what would be brought up for discussion and approval.

If the Planning Director misled the Board of Supervisors, he should be fired for misconduct and the Board of Supervisors should be reprimanded for failure to read the item fully and see that more than two items were in the Agenda Item #97 and discuss each change individually and vote on each one. If the Board of Supervisors cherry-picked the agenda item and chose the "two items" to discuss and approve, then you are

6/10/2008

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remiss in your duty to protect the rights of citizens of the county. Three of the representatives are attorneys, one a real estate broker and one a "well-read book seller." They should have read and comprehended the agenda item in its content. If the Board members and the Planning Director conspired to obfuscate what is in the item or mislead the public as to what is in the item, then the Board should be recalled and the Planning Director fired.

Judging from the line-outs and the addition of language to the various sections in the code there are more than 16 separate items that should have been discussed and voted on by the Board.

Every word has meaning. Every phrase has to be studied to determine if it fits in with the intent of the ordinance. When Gary Patton, an attorney, was on the board and the Planning Director or any department director brought changes to the Board for approval he went over every word, phrase and paragraph to determine whether it complied with state or federal law and whether the word was correctly used in the paragraph or directive. This Board has the same obligation to serve the public and critique department changes to the benefit of the public.

Just the one change in Chapter 1.12 regarding the removal of the allegedly illegal rents from the \$10,000 limitation and change the period of time from which the rents could be collected as a penalty is a major change that should have brought much discussion and a legal opinion as to compliance with state and federal civil rights amendments.

For example, consider a property owner having a rental unit available for the past 10 years. If the rent was \$800/month for the past ten years, amounts subject to forfeiture would be \$96,000, or if the rent was \$500/month for ten years, the amounts subject to forfeiture would amount to \$60,000.

Mr. Burns testified that the rents could be determined by the County Housing Authority. The rent could be anything they choose it to be, he said. One successful collection would buy a new inexperienced code enforcement agent. With money from forfeitures, Burns could build a J. Edgar Hoover type, FBI style, Department of Homeland Destruction Agency, comprised of snitches and agents in trench coats and fedoras.

From our reading of the agenda item we found over 16 changes in the various chapters of the county code. Some of those changes are listed below. This Board of Supervisors was so predisposed to approve this horrendous attack on property rights and property owners in the county you did not even acknowledge the major changes in the item.

- 1) 1.12.010: Addition of language re: violations denominated a misdemeanor
- 2) 1.12.060: addition of language effecting permit issuance.
- 3) 1.12.070: addition of language to:
 - 4) A. civil penalties, and recovered penalties
 - 5) B. addition to language regarding Illegal rents, types of alleged violations, definition of types of structures considered for habitation, where the penalties recovered will be deposited.
 - 6) C. addition of language concerning enforcement costs.
 - 7) D.1. Hearing officer addition of language regarding penalties
 - 8) D.2.a change of language regarding notice of opportunity to correct or remedy violations and elimination of language regarding written notice of hearing.
 - 9) D.2.b. added.
 - 10) D.3 addition of language regarding notice of admin hearing.
 - 11) D.5 Hearing officer procedures. Added and changed language pertinent to the taking of testimony
 - 12) D.5.c changed language concerning administrative interpretations
 - 13) D.5.d.i,ii,iii,iv & v. Changed and added language to Hearing Officer Decisions
 - 14) F. Authority of hearing officer: added language to affect limitations.

15) H. Fees: changed the language regarding appeal fees.

16) K. Penalties recovered. Eliminated language regarding where penalties are deposited.

In Item #97, there are changes made to the language in County Code, Chapter 19 that should have been discussed and debated under this agenda item, which you approved without discussion.

Written complaints concerning illegal habitation amount to between 182 and 234 complaints in a year if the Planning Director's statement is correct. The public will never be able to corroborate the Director's statement because the complaints are not available to the public. The Planning Director told the Board that they would coordinate the removal of a renter from a so-called illegal rental unit with the assistance of the California Rural Legal Assistance Agency. My discussion with CRLA is - that is not what they do. Burns also said that the Housing Authority would determine the rents that could be charged back to the owner. My discussion with them revealed that is not what they do as part of their job description.

We need all the housing we can get at a price people can afford. Some of this housing may not have been approved by some bureaucrat, however, those who are fortunate enough to have that roof over their head must be respected for their choice, and the provider should be allowed to contract with whomever they choose without adversarial government intrusion.

We respectfully request that you, County Representatives, not approve this host of repressive regulations which will stifle the rights of property owners.

Regards,

Patrick Dugan, President

Included herewith is some language from the CRLA and the Community Action Board that tells part of the story of housing in the County.

California Rural Legal Assistance's Housing priority area aims to enforce federal and state fair housing and civil rights laws in land use, redevelopment, code enforcement, rental housing, homeownership, lending and insurance. CRLA works to ensure that local jurisdictions make fair and equitable decisions and comply with state law requirements to identify adequate sites for the development of multi-family housing for farmworkers, the homeless, people with disabilities and other special needs categories. An established Housing Task Force and CRLA staff advocate on behalf of low-income rural Californians in the following arenas:

- . Farmworker Housing Advocacy: To enforce decent living conditions and require that housing providers comply with state and federal law to prevent housing discrimination by private and government entities against farm workers;
- . Code Enforcement Advocacy: To ensure that code enforcement agencies comply with applicable laws and to challenge discriminatory slumlords through litigation.
- . Landlord-Tenant Advocacy: To prevent evictions and ensure that landlords comply with the law in order to preserve affordable housing.
- . Land use, Environmental Justice, and Rural Health Advocacy: To ensure that farmworker housing and health impacts are addressed; to analyze growth management, water, and related policies and ensure fairness to low income clients and farmworkers.
- . Federal Housing Law Advocacy: To ensure that federally subsidized housing programs meet the needs of our clients, are lawfully operated, comply with fair housing laws, and are preserved in the affordable housing inventory.
- . Disaster Response Advocacy: To ensure housing is provided in disasters.
- . Immigration and Housing Advocacy: To ensure that immigrants are not discriminated against in the provision of housing; or to fight illegal anti-immigrant initiatives.

Community Action Board of Santa Cruz County, Inc.
"Housing and Homelessness in Santa Cruz County - 2007"

Currently, there are 2383 families on the Low Income Public Housing Waiting List. The Housing Authority will process applications in the order received.

Please note that the waiting list is a list of families that have completed a pre-application indicating that they are interested in participating in the program. Waiting list applicants have not yet been screened for income or other program eligibility.

If you are already on the waiting list, please understand that you wait for assistance may be long. We cannot predict when your name will reach the top of the Waiting List. The Housing Authority is currently processing applications for the households that applied on or before May 25, 2005.

40% of Santa Cruz County households rent. The National Low Income Housing Coalition found that Santa Cruz County was the eighth most expensive rental market in the country following Marin, San Mateo, San Francisco, Orange, Ventura, Nantucket County, MA, and Westchester County, N.Y. [14] This is a slight improvement since 2004 when Santa Cruz County was fifth least affordable rental market in the country.

Housing, Housing, Housing.

Homelessness will exist until there is sufficient housing affordable to those with the lowest incomes. Accordingly, the number one priority in this community must be to take all action to ensure the preservation of existing and creation of new stable, affordable housing.

In the Economic Issues: Santa Cruz County Community Assessment Project, Year 2007.

With the exception of a two-bedroom unit, local average rents have increased from 2006 to 2007. Since 2001, the average rent has increased by 30.7% for a studio unit, 28.9% for a 1-bedroom unit, 26.4% for a 2-bedroom unit, and 32.3% for a three-bedroom. Fair Market Rents (FMRs) are determined by the United States Department of Housing and Urban Development (HUD) and establish the maximum amount that the Housing Authority will pay for rental units. For example, in 2007, the FMR for a studio apartment was \$883, while the average rent was \$953. In Santa Cruz County, FMRs were lower than average rents from 2001 to 2006 in Santa Cruz County. According to the United States Department of Housing and Urban Development (HUD), the generally accepted definition of affordable housing is for a household to pay no more than 30% of its annual income on housing. Spending much more than 30% impacts a residents' ability to afford other basic needs such as health care and child care. In 2007, when Santa Cruz County residents were asked how much of their total household take-home pay goes to housing costs, 49.9% said they spend 30% or less on housing costs. However, among the other half of respondents, 25.3% said they spend between 31-49% of their total household take-home pay on housing costs, 19.6% said they spend between 50-74% and 5.2% said they spend 75% or more. A higher percentage of Latinos said they spend more than 30% of their total take home pay on housing as compared to Caucasians. Of those that spend 31-49% of their income on housing, 22.3% are Caucasian and 33.4% are Latino and of those that spend 50-74% of their income on housing costs, 12.0% are Caucasian and 42.1% are Latino.

10

6/10/2008

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 6:38 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/10/2008

Item Number : 10

Name : Rose Marie McNair

Email : realrose@norcalbroker.com

Address : Not Supplied

Phone : 831.476.2102

Comments:
June 10, 2008

Honorable Supervisors:

Having attended the "Code Compliance Workshop" on May 20, I was awaiting the final copy of the amended ordinance Section 1.12.10 et al for review.

It was my understanding that Item #2 was deleted from the Staff Report, i.e., "Direct the Planning Department to more aggressively pursue the forfeiture of illegal rents in cases that involve illegally constructed or converted rental units." Yet, that Section under 1.12.070, Item B "Illegal Rents." remains in your final draft. During the May 20 meeting, I thought Mr. Stone asked for the deletion.

It is confusing to me when certain items are addressed during meetings, spoken, and discussed, yet are not made available or referenced in the minutes.

This item received a very lengthy discussion--with the majority really opposing the amendments and the ordinance itself. Yet, it passed.

If every un-permitted unit in the San Lorenzo Valley were asked to be made legal according to the County's rules, most could not, because the San Lorenzo Valley is on septic, and most parcels are under an acre. Therefore, under county ordinance, no second units can exist unless the property is on an acre--and for those units out there, that is NOT possible in that area. In urban areas, the requirements are different. How can you resolve this?

Please include this in the records, and please save the transcript of that May 20 meeting.

Rose Marie McNair
(831) 476-2102

6/10/2008

10

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 09, 2008 11:11 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Jim Soderman

Email : iunderstand@got.net

Address : Not Supplied

Phone : Not Supplied

Comments :

Let me get this straight.

You expect/demand that we give up our rights for the 'privelege' of being given a building permit!!!!

Tyranny like this leads to all sorts of unintended consequences.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, June 10, 2008 8:29 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Ken McCrary

Email : kenm@big-creek.com

Address : Not Supplied

Phone : Not Supplied

Comments :

Item 10 Consent agenda- please remove from consent agenda and vote NO! Re: Adopting 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

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, June 10, 2008 8:12 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/10/2008

Item Number : 10

Name : Andrea Sanchez

Email : ansan@cruzio.com

Address : Not Supplied

Phone : Not Supplied

Comments :

HEROES:

Thank you to all the people who wrote, called, faxed, emailed and showed up to speak in protest of Planning Department and Board of Supervisors heinous actions on May 20, 2008. You are heroes. Thank you!

VILLAINS:

Shame on the Board of Supervisors and Planning Director Tom Burns.

Frightening code enforcement policies enacted by the Santa Cruz County Board of Supervisors in spite of public outrage and more on the way..

Contrary to Planning Director Tom Burns' allegation that only 2 simple items were acted on during the May 20 Santa Cruz County Board of Supervisors meeting, a number of significant and far-reaching changes to County Code were submitted by the Planning Department. Despite overwhelming public protests, all egregious portions of the ordinance were unanimously accepted by the Supervisors without apparent consideration or discussion.

Here are the items the board adopted on May 20, 2008:

- . "Notice of Violations" (red-tags) no longer mailed to property owners, just posted on the property in the hopes that you'll miss your right to appeal or protest.
- . Removed the \$10,000 penalty/fee cap, allowing for higher penalties to be charged.
- . Broadened the scope of violations.
- . Increased authority of the already illegal Kangaroo Court.
- . Increased discretionary powers, expanding circumstances for favoritism or abuse.
- . Permits can be held hostage by applying discretionary standards.
- . Imposition of criminal charges and imprisonment.
- . Penalty funds go into the County General Fund to pay off collaborating non-profit "buddy and beneficiary" people and organizations.

Previously adopted on April 15, 2008:

- . Mandatory permanent deed restrictions on property owners.
- . Periodic, perpetual unwarranted, unannounced searches in violation of your 4th Amendment right to protection from unreasonable search and seizure.
- . Fees to be charge for the unwarranted searches.
- . Penalty for "non-compliance" increased.

6/10/2008

10

. Forced property owner declarations.

Items of expanded government regulatory power currently in the planning stages:

- . Remove tenants from housing and relocate them to government housing programs.
- . Publicly embarrass red-tagged families in order to "deter future conversions".
- . Revising the language of already adopted ordinances.
- . Make existing ordinances more punitive in their application.
- . Increase coordination with snitches.
- . Increase efforts to go after back rents.
- . Engage in "proactive inspection" to augment the existing snitch system.

What they have done for the last 30 years anyway:

- . Periodic, perpetual, unannounced, unwarranted searches.
- . Disregarded the penalty cap.
- . Given less than 30 days to correct issues.
- . Defined regulations on an ad-hoc basis with different results for different people.
- . Run an illegal Kangaroo Court
- . Permits issued on a two-track system for favored and non-favored applicants.
- . Threatened property owners with imprisonment, criminal charges and bodily harm.
- . Enforcement "officers" have assaulted citizens verbally and physically.
- . Implemented ordinances without due process.
- . Engaged in proactive warrantless inspections.
- . Targeted citizens politically.
- . Shown favoritism to buddies and beneficiaries.

Burns and the Board of Supervisors seem intent on turning the Planning Department into their own personal KGB-style Department of Homeland Destruction Agency.

- . The red tag code enforcement program is used to generate revenue and take control of citizens' properties.
- . The red tag program dovetails with the County's RDA-funded government housing programs to remove people from their homes and place them in government-controlled housing projects.
- . Thus the housing crisis is a direct result of the County's oppressive and punitive processes.
- . The Planning Department seeks to create public/private partnerships with favored "non-profit" developers to build deed restricted, poorly built, costly government subsidized and controlled housing.

For further reading, google these related articles:

Code Enforcement Falsely Subjects Widow to Red Tags

Santa Cruz: The Gestapo of the West

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, June 10, 2008 7:54 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date :

Item Number :

Name : Gary Arnold

Email : Whitepaper@aol.com

Address : 2855 Lakeview Drive

Phone : 475-0993

Comments :

Tom Burns should be fired and be rehired by his real employers the UN.

Tom burns is leading the Supervisors by the nose by emplementing UN's Agenda 21.

The Supervisors should represent we people against the Multinationals instead of the other way around.