



**Office of the City Auditor
Report to the City Council
City of San Jose**

**AN AUDIT OF THE MULTIPLE
HOUSING INSPECTION
PROGRAM**

**Opportunities Exist For Code Enforcement
To Improve The Efficiency And
Effectiveness Of Multiple Housing
Inspections**

**Code Enforcement Has Not Imposed
Municipal Code Required Penalties And
Interest For Delinquent Residential
Occupancy Permit Fees**

**Report 99-03
August 1999**



CITY OF SAN JOSÉ, CALIFORNIA

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City Auditor

August 16, 1999

Honorable Mayor and Members
of the City Council
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Transmitted herewith is a report on *An Audit Of The Multiple Housing Inspection Program*. This report is in accordance with City Charter Section 805.

An Executive Summary is presented on the blue pages in the front of this report. The City Administration's response is shown on the yellow pages before the Appendices.

I will present this report to the Finance Committee at its August 25, 1999, meeting. If you need additional information in the interim, please let me know. The City Auditor's staff members who participated in the preparation of this report are Mike Edmonds and Eduardo Luna.

Respectfully submitted,

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PROGRAM**

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Executive Summary

In accordance with the City Auditor's 1998-99 Audit Workplan, we have audited the Multiple Housing Program which the Code Enforcement Division of the Department of Planning, Building, and Code Enforcement (Code Enforcement) manages. This is the third in a series of audit reports on Code Enforcement. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

Finding I Opportunities Exist For Code Enforcement To Improve Efficiency And Effectiveness Of Multiple Housing Inspections

The Code Enforcement Division of the Planning, Building, and Code Enforcement Department (Code Enforcement) inspects multiple housing buildings for compliance with state housing laws and Municipal Code requirements. Our audit revealed that Code Enforcement is issuing Compliance Orders in a more timely manner. However, opportunities exist for Code Enforcement to conduct multiple housing inspections more efficiently and resolve Housing Code violations more effectively. We found that Code Enforcement can improve the efficiency and effectiveness of its multiple housing inspections by:

- Improving Code Enforcement Inspectors' (Inspector) responsiveness in resolving multiple housing cases;
- Ensuring that Inspectors resolve all multiple housing cases in a consistent and appropriate manner;
- Ensuring that Inspectors assess reinspection fees consistently;
- Enhancing communications with property owners; and
- Coordinating multiple housing inspections more closely with other entities.

We found that Code Enforcement needs to provide Inspectors with specific timeframes for responding to complaints and verifying multiple housing property owner compliance, checklists for performing routine inspections, timeframes for issuing Compliance Orders, and supervisory approval of Amended Compliance Orders and Compliance Orders beyond a set number of days. Further, Code Enforcement needs to

develop written procedures for implementing its new reinspection fee policy. In addition, Code Enforcement needs to inform property owners of multiple housing program requirements. Finally, Code Enforcement should meet with the San Jose Fire Department and the Santa Clara County Department of Environmental Health to better coordinate their mutual inspections of multiple housing buildings. By so doing, Code Enforcement can conduct its multiple housing inspections more efficiently, resolve Housing Code violations more effectively, and ensure consistent treatment for multiple housing property owners.

RECOMMENDATIONS

We recommend that Code Enforcement:

- Recommendation #1** Clarify complaint response guidelines for multiple housing inspectors to follow when responding to complaints and have Code Enforcement Supervisors monitor complaint response times more closely. (Priority 3)
- Recommendation #2** Establish specific timeliness standards regarding follow-up inspections. (Priority 3)
- Recommendation #3** Use its San Jose Code Enforcement System to produce a report to remind Inspectors at a specified time prior to the Compliance Date that a reinspection is due. (Priority 3)
- Recommendation #4** Develop a routine inspection checklist and instructions to document for Inspectors their inspection responsibilities and items to be inspected. (Priority 3)
- Recommendation #5** Develop specific guidelines for compliance times allowed for various violations and when supervisory approval is required for Amended Compliance Orders and Compliance Orders issued for more than a set number of days. (Priority 3)
- Recommendation #6** Develop procedures to ensure that Code Enforcement Inspectors assess Reinspection Fees in conformance with its new policy. (Priority 3)

- Recommendation #7** **Develop and provide multiple housing property owners with information on the most common Housing Code violations identified during routine inspections. (Priority 3)**
- Recommendation #8** **Provide multiple housing property owners with more detailed information on Multiple Housing Program requirements. Additionally, Code Enforcement should work with a local organization such as the Tri-County Apartment Owners' Association to develop and distribute Multiple Housing Program information to multiple housing property owners. (Priority 3)**
- Recommendation #9** **Discontinue using Tax Warning Notices and develop a Compliance Notice cover letter that informs property owners of the inspection process and what actions are required by what dates. (Priority 3)**
- Recommendation #10** **Develop a warning letter which clearly states the date the Inspector observed violation(s) and the date the property owner is to correct the violation(s). (Priority 3)**
- Recommendation #11** **Meet with the SJFD and the Santa Clara County Department of Environmental Health to discuss areas of mutual concern such as inspections of multiple housing building swimming pools, swimming pool fences, and water heater strappings. (Priority 3)**

Finding II **Code Enforcement Has Not Imposed Municipal Code Required Penalties And Interest For Delinquent Residential Occupancy Permit Fees**

Code Enforcement annually issues \$24.50 per unit Residential Occupancy Permits (Permit). The San Jose Municipal Code prescribes when Permit fee payments are considered late and the penalties and associated interest. Our audit revealed that Code Enforcement has not imposed delinquent penalties and interest for Permit fees in accordance with Municipal Code requirements. Specifically, we found that Code Enforcement did not record late payments or assess approximately \$11,000 in Code required penalties and interest. In addition, we found that Code Enforcement is 1) not promptly billing account holders applicable penalties and interest; 2) not resolving delinquent accounts in a timely manner; and 3) not following

proper procedures for settling outdated accounts. In our opinion, Code Enforcement should 1) revise its current practice for imposing penalties and interest on delinquent Permit fees; 2) develop procedures for identifying late payments; 3) immediately bill Permit holders for any penalties and interest assessed; 4) establish procedures for processing delinquent fees; 5) inform staff of established procedures for resolving revoked Permits; and 6) refer long outstanding and outdated accounts to the Treasury Division (Treasury) for disposition. By so doing, Code Enforcement will be in compliance with the Municipal Code, increase revenues, and enhance the collection of delinquent accounts.

RECOMMENDATIONS

We recommend that Code Enforcement:

- Recommendation #12** **Revise its practice of not imposing penalties and interest for certain Residential Occupancy Permit fee late payments to be consistent with Municipal Code requirements. (Priority 2)**
- Recommendation #13** **Work with the Treasury Division to establish a process to identify and assess applicable penalties and interest on all payments postmarked after the due date. (Priority 2)**
- Recommendation #14** **Immediately bill property owners for late penalties and interest assessed on delinquent Residential Occupancy Permit fees. (Priority 2)**
- Recommendation #15** **Establish procedures for processing delinquent Residential Occupancy Permits, including the specific timeframes for preparing delinquent notices. (Priority 3)**
- Recommendation #16** **Inform all Multiple Housing Inspectors and Supervisors of established procedures for resolving revoked Residential Occupancy Permit cases and ensure that staff follow-up on revoked Permits in a timely manner. (Priority 2)**
- Recommendation #17** **Refer long outstanding and outdated Residential Occupancy Permit fee accounts to the Treasury Division for appropriate disposition. (Priority 2)**

Introduction

In accordance with the City Auditor's 1998-99 Audit Workplan, we have audited the Multiple Housing Program which the Code Enforcement Division of the Department of Planning, Building, and Code Enforcement (Code Enforcement) manages. This is the third in a series of audit reports on Code Enforcement. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

The City Auditor's Office thanks the Code Enforcement staff who gave their time, information, insight, and cooperation during the audit process.

Background

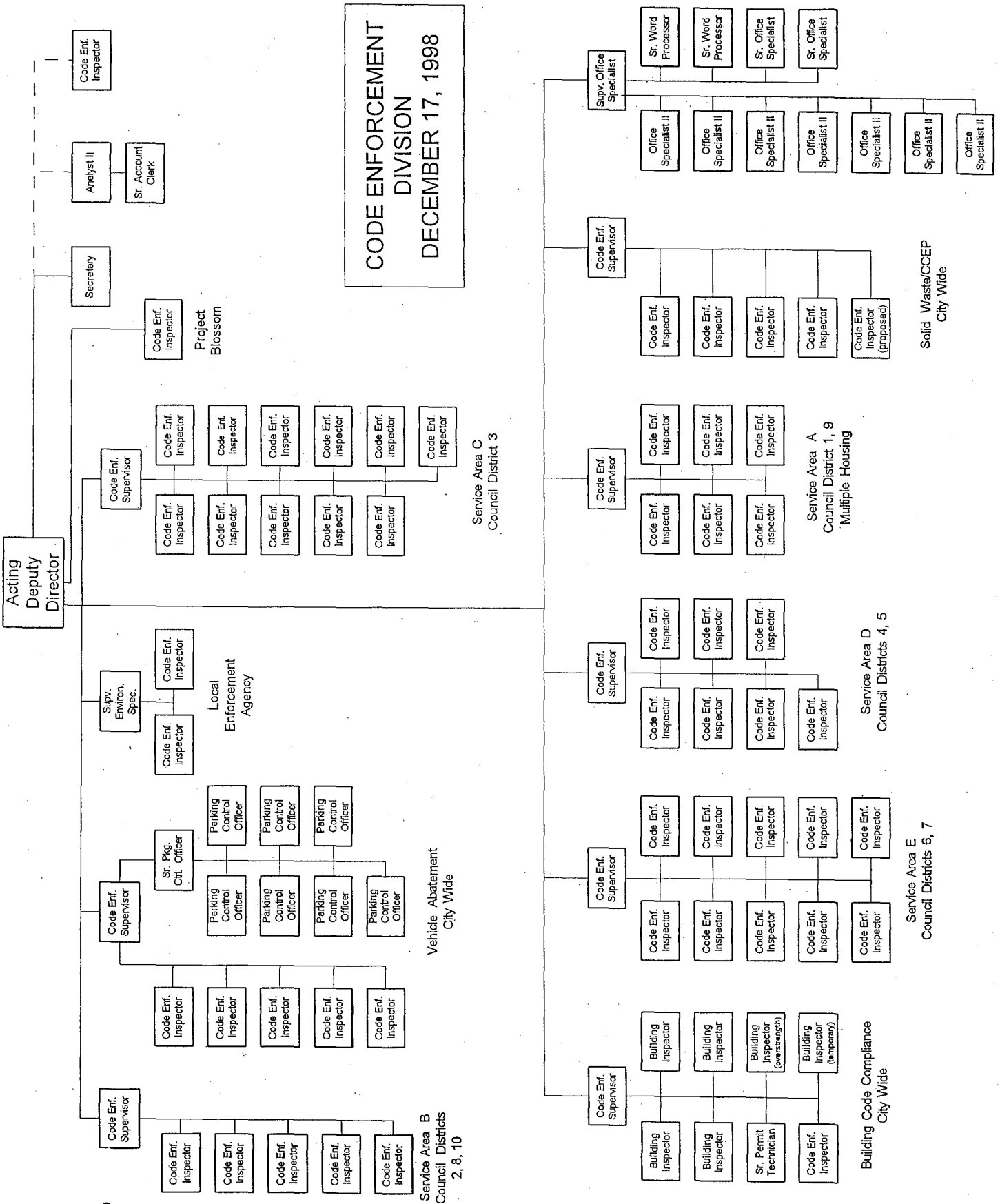
Code Enforcement's program mission is to work in partnership with the people of San Jose, provide citywide education and enforcement to promote and maintain a safe and desirable community consistent with health and safety regulations. Code Enforcement enforces various ordinances to promote health, safety, and appearance of the City of San Jose. Specifically, Code Enforcement investigates and abates complaints involving land use (zoning), housing conditions, abandoned vehicles, signs, fences, and general public nuisances. Code Enforcement also monitors landfill and recycling sites to ensure their proper operations and adherence to federal, state, and local code.

Budgeting And Staffing

In 1998-99, Code Enforcement's budget was \$6.9 million, which included \$6.2 million for personal services and about \$700,000 for non-personal services (including equipment). Code Enforcement receives its revenues from the General Fund, Federal Community Development Block Grant Funds, and various cost-recovery fees, such as Solid Waste Disposal Fees and Residential Occupancy Permit Fees.

In 1998-99, Code Enforcement was authorized 94 positions, which were organized into five service area groups and three additional groups: building code compliance, vehicle abatement, and solid waste issues. The five service area groups provide general code, multiple housing, and targeted program enforcement services. Code Enforcement's organization chart is shown on the next page.

Multiple Housing Inspection Program



Multiple Housing Program

Code Enforcement inspects multiple housing projects for compliance with state housing laws and Municipal Code regulations. Code Enforcement issues Residential Occupancy Permits (permits) for all apartment buildings (three units or more), hotels and motels, guesthouses, residential care facilities, residential service facilities, emergency residential shelters, and fraternities and sororities in San Jose. The program does not apply to single family rental properties, condominiums, and duplexes. In 1998-99, Code Enforcement assigned 13 Code Enforcement Inspectors to this program. Additionally, Code Enforcement officials indicated that inspectors assigned to the targeted programs, such as Project Crackdown, also conducted routine inspections of multiple housing buildings. Code Enforcement Inspectors should routinely inspect all multiple housing buildings within the City on either a three or six-year inspection cycle. Code Enforcement Inspectors also investigate complaints about substandard housing conditions in multiple family dwellings.

Multiple Housing Roster Identifies Permit Holder

Owners of multiple housing (or their agents) must obtain a Residential Occupancy Permit. The Municipal Code prescribes that any building, housing, or unit for which a permit is required, shall not be occupied until a permit has been issued. Code Enforcement maintains a Multiple Housing Roster (Roster) of known multiple housing buildings for which Code Enforcement has issued permits. Code Enforcement uses this Roster for billing permit holders on an annual basis and scheduling routine inspections.

As of April 20, 1999, the Multiple Housing Roster included 6,196 multiple housing buildings with 65,151 units. Of these buildings 5,964 (96 percent) were apartment buildings with 56,853 units. The Roster lists the building address, building type, owner name and address, number of units, census tract, and permit number. Figure 1 shows the breakdown of Code Enforcement's Roster.

Exhibit 1 Multiple Housing Roster By Building Type, as of April 20, 1999

Building Type	Number of Buildings	Number of Units
Apartment	5,964	56,853
Residential Care Facility	14	220
Emergency Residential Shelter	6	72
Fraternity/Sorority	21	296
Guesthouse	105	1,108
Hotel/Motel	81	6,581
Residential Service Facility	5	21
Total	6,196	65,151

Source: Auditor analysis of Code Enforcement data.

*Routine Inspections
Target Health And
Safety Issues*

The goal of the Multiple Housing Program is to ensure that the City's multi-family rental housing stock is maintained in decent, safe, and sanitary condition in accordance with state housing laws and Municipal Code requirements. The program is intended to provide renters, who may fear eviction if they complain to property owners, protection from unsafe housing conditions. To meet these program goals, Code Enforcement routinely inspects multiple housing projects for compliance with applicable laws.

**Scope And
Methodology**

The scope of our audit was to assess the adequacy of Code Enforcement's controls over the consistency and timeliness of multiple housing inspections and to identify potential areas for improvement regarding communications with property owners and coordination with other entities. To assess inspection timeliness and consistency, we randomly selected 100 multiple housing cases, including 50 cases with less than 10 units, 30 cases with 11 to 50 units, and 20 cases with 51 or more units. The results of our testing are limited to the cases reviewed. From each building case file, we selected the most recent case log sheet and all case log sheets done since 1997. The case log sheets either indicated a routine inspection or a complaint action. For each case file, we reviewed for the following information:

- Date of first inspection and number of days past initial date;
- The extent of compliance order use, including the time required to issue those orders, and number of compliance days;

- Date of second and third inspections and number of days past compliance date;
- Date closed and total days cases were open; and
- Routine and complaint findings.

Of the 100 cases we examined, we obtained information for 82 buildings with 116 complaint or routine inspections, as shown below. Recent information was not available for 16 buildings and information was not entered for 2 cases. For the 82 buildings with recent Code Enforcement activity, we identified 60 complaint cases and 56 routine inspection cases. Several buildings had multiple complaint inspections within the last two years.

Action	Compliance Order Issued	No Compliance Order Issued	Warning Letter	Total
Complaint	19	32	9	60
Routine	32	24	0	56
Total	51	56	9	116

In addition, we observed Code Enforcement Inspectors performing routine inspections of multiple housing buildings. We also interviewed Code Enforcement Inspectors and Code Enforcement Supervisors. We also contacted other municipalities with multiple housing inspection programs, including Dallas, Texas; San Francisco, California; and Los Angeles, California.

We also reviewed the processing of Residential Occupancy Permit payments for compliance with the Municipal Code. Specifically, we verified that Code Enforcement recorded late payments; assessed penalties and interest, when applicable; billed account holders penalties and interest; and resolved delinquent accounts in a timely manner. In order to determine the value of the penalties and interest Code Enforcement did not charge to delinquent accounts, we reviewed payments Code Enforcement received in January 1999 and February 1999.

We performed only limited testing of the various computer reports and databases we used during our audit. We did not review the general and specific controls for the computer systems used in compiling the various computer reports and databases we used.

Major Accomplishments Related To This Program

In Appendix B, the Director of the Department of Planning, Building, and Code Enforcement informed us of major program accomplishments. Some of Code Enforcement's major accomplishments include the following:

- Completed Reconciliation of the Multiple Housing Roster and the City's Sewer Service and Use Database;
- Developed a Definition of Condominiums for the Multiple Housing Program;
- Developed a Procedure for Transmittal of Certificates of Occupancy to Code Enforcement for Newly Constructed Multiple Housing Buildings;
- Evaluated Staffing of the Multiple Housing Program;
- Developed Procedures for Documenting Inspection Results in the CES System;
- Multiple Housing Inspection Scope Clarification;
- Reorganized the Multiple Housing Inspection Program;
- Completed a Detailed Workload Analysis and Established Performance Targets;
- Expanded Use of Administrative Citations for Solid Waste Violations;
- Implemented a new Code Enforcement Computer System;
- Development of a Property Owner/Manager Training Program;
- Annual Multiple Housing Newsletter;
- Updated the Multiple Housing Roster; and
- Completed a comprehensive Multiple Housing Inspection Program Report.

Finding I

Opportunities Exist For Code Enforcement To Improve Efficiency And Effectiveness Of Multiple Housing Inspections

The Code Enforcement Division of the Planning, Building, and Code Enforcement Department (Code Enforcement) inspects multiple housing buildings for compliance with state housing laws and Municipal Code requirements. Our audit revealed that Code Enforcement is issuing Compliance Orders in a more timely manner. However, opportunities exist for Code Enforcement to conduct multiple housing inspections more efficiently and resolve Housing Code violations more effectively. We found that Code Enforcement can improve the efficiency and effectiveness of its multiple housing inspections by:

- Improving Code Enforcement Inspectors' (Inspector) responsiveness in resolving multiple housing cases;
- Ensuring that Inspectors resolve all multiple housing cases in a consistent and appropriate manner;
- Ensuring that Inspectors assess reinspection fees consistently;
- Enhancing communications with property owners; and
- Coordinating multiple housing inspections more closely with other entities.

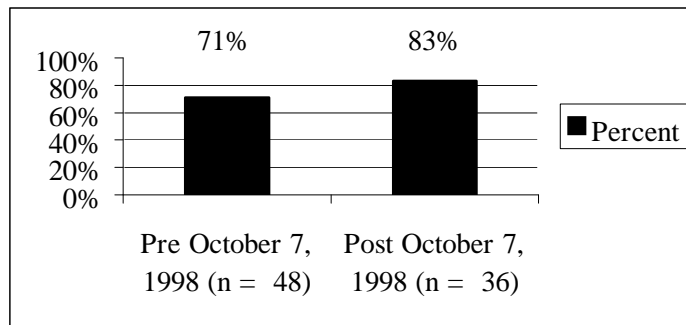
We found that Code Enforcement needs to provide Inspectors with specific timeframes for responding to complaints and verifying multiple housing property owner compliance, checklists for performing routine inspections, timeframes for issuing Compliance Orders, and supervisory approval of Amended Compliance Orders and Compliance Orders beyond a set number of days. Further, Code Enforcement needs to develop written procedures for implementing its new reinspection fee policy. In addition, Code Enforcement needs to inform property owners of multiple housing program requirements. Finally, Code Enforcement should meet with the San Jose Fire Department and the Santa Clara County Department of Environmental Health to better coordinate their mutual inspections of multiple housing buildings. By so doing, Code Enforcement can conduct its multiple housing inspections more efficiently, resolve Housing Code violations more effectively, and ensure consistent treatment for multiple housing property owners.

Code Enforcement Is Issuing Compliance Orders In A Timely Manner

An area where Code Enforcement has made improvements is the timeliness of sending Compliance Orders and warning letters to property owners after initial inspections have confirmed violations. Prior to October 7, 1998, the Code Enforcement Procedures Manual made no mention of how soon after the initial inspection an Inspector should prepare and send a Compliance Order to property owners. After that date, Code Enforcement revised the Procedures Manual to include a provision that Inspectors prepare Compliance Orders within five working days of the initial inspection. After the Inspector prepares the Compliance Order, clerical staff procedures allow 24 hours for typing and mailing Compliance Orders. Altogether, Code Enforcement allows about six working days to prepare Compliance Orders.

As shown in Exhibit 2, since Code Enforcement revised its procedures (October 7, 1998), Inspectors have issued Compliance Orders in a more timely manner. We found that prior to the October 7, 1998 procedure revision, Inspectors issued Compliance Orders within six working days of the initial inspection in 71 percent of the cases examined and from seven to 68 working days for 29 percent of the cases we examined. After Code Enforcement revised its Procedures Manual, Inspectors issued Compliance Orders within six working days for 83 percent of the cases we reviewed and in no instance took more than 20 working days to issue a Compliance Order.

Exhibit 2 Percent Of Compliance Orders Issued Within Six Working Days Of Inspection



Source: Auditor analysis of Code Enforcement data.

Inspectors send warning letters to address multiple housing complaints. Warning letters typically address issues, such as overgrown weeds, debris, improper garbage bin storage, early set-out of garbage bins, and overflowing garbage bins. In the

cases we reviewed, Inspectors were generally timely in sending out warning letters. In seven of nine instances reviewed, Inspectors sent warning letters within three days of the initial inspection and verification of the complaint violation. In only two cases, did an Inspector not send a warning letter within 13 days of initial inspection.

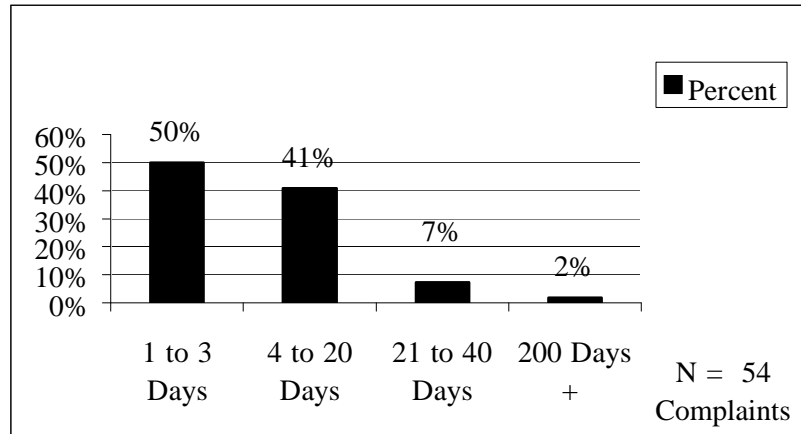
*Code Enforcement
Needs To Improve
Inspector
Responsiveness In
Resolving Multiple
Housing Cases*

In our opinion, Inspector responsiveness is a critical component in conducting multiple housing inspections efficiently and resolving multiple housing complaints effectively. Inspector responsiveness is an issue when 1) first responding to complaints; 2) issuing compliance orders and warning letters; and 3) verifying compliance. Our audit revealed that Code Enforcement has shown improvement in issuing Compliance Orders and warning letters within reasonable timeframes. However, we found that Inspectors do not always respond to complaints in a timely manner and do not always verify compliance within a reasonable period after the due date. As a result, Housing Code violations may persist longer than they should.

*Inspectors Do Not
Always Conduct
Timely Complaint
Inspections*

Code Enforcement has general time requirements for responding to General Code and multiple housing complaints. Specifically, Code Enforcement's Procedures Manual identifies multiple housing complaints as requiring immediate-level response. Inspectors are expected to conduct site visits on multiple housing complaints within three days. As shown in Exhibit 3, we found that in 50 percent of the complaint cases we reviewed, Inspectors responded to complaints in less than three days. However, for 41 percent of the complaints we reviewed, Inspectors took four to 20 days to respond. Further, for seven percent of the complaints we reviewed, Inspectors took 21 and 40 days to respond. Finally, for one of the complaints we reviewed, an Inspector took 220 days to respond. It should be noted that none of the cases that we reviewed with delayed responses appeared to be priority level complaints which require an Inspector to respond within 24 hours.

Exhibit 3 Multiple Housing Complaint Response



Source: Auditor analysis of Code Enforcement data.

For the cases reviewed, we found that Inspectors generally did not document or explain why they did not respond to complaints within three days. When Inspectors did document why they took more than three days they cited that the complaining party or responsible party was unavailable and the Inspector had vacation plans. In our opinion, Code Enforcement Supervisors need to monitor complaint response times more closely and make Inspectors aware of the importance of responding to complaints in a more timely manner.

We recommend that Code Enforcement:

Recommendation #1

Clarify complaint response guidelines for multiple housing inspectors to follow when responding to complaints and have Code Enforcement Supervisors monitor complaint response times more closely. (Priority 3)

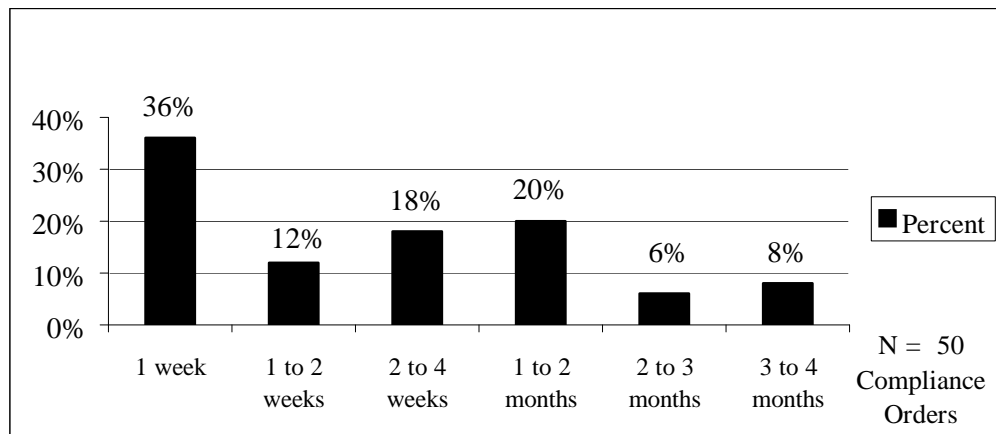
Code Enforcement Inspectors Need To Conduct More Timely Follow-Up Inspections To Verify Compliance

A key in efficiently resolving multiple housing cases, in our opinion, is Inspector timeliness in conducting follow-up inspections to verify compliance with Compliance Orders and warning letters. As of November 18, 1996, the Code Enforcement Procedures Manual provides that as soon as possible after the Compliance Date, the Inspector should conduct a follow-up inspection of the property to verify compliance. The Procedures Manual does not specify a set number of days to verify compliance. However, in our sample

of 50 cases, we found that it took an Inspector an average of 26 days after the Compliance Date to check for compliance. In one instance, an Inspector did not conduct a follow-up inspection of a property for 119 days after the Compliance Date—almost four months.

In more than half of the compliance order cases reviewed, Inspectors took more than 18 days to check for compliance. Exhibit 4 summarizes the timeframes within which Inspectors conducted follow-up inspections after the Compliance Date for the 50 cases we reviewed.

Exhibit 4 Inspector Timeliness of Follow-up Inspections After Compliance Dates



Source: Auditor analysis of Code Enforcement data.

There are several contributing factors as to why Inspectors do not conduct timely follow-up inspections to verify compliance with the Compliance Date. First, Code Enforcement management has not provided Inspectors with clear guidance on how soon after the Compliance Date the Inspector should inspect the property to verify compliance. As reported, Code Enforcement procedures only specify that Inspectors check compliance “as soon as possible” after the Compliance Date. At a minimum, Code Enforcement procedures should specify a timeframe (such as one to three working days) as to how soon after the Compliance Date, an Inspector must check for compliance. In order to hold Inspectors accountable, Code Enforcement management needs to communicate its expectations regarding follow-up inspection timeliness.

As we noted on page 8, timeliness improved markedly after Code Enforcement revised its Procedures Manual to specify the

number of working days after an initial inspection an Inspector is to prepare a Compliance Order. In our opinion, this demonstrates the value of clearly dedicated timeliness expectations.

We recommend that Code Enforcement:

Recommendation #2

Establish specific timeliness standards regarding follow-up inspections. (Priority 3)

A second contributing factor is that most Inspectors wait until the Compliance Date to initiate contact with property owners to schedule follow-up inspections. We found that this occurred in about half of the 51 cases reviewed. In six percent of the cases reviewed, Inspectors did not take action until property owners made the initial contact. By not checking compliance in a timely manner, Inspectors are, in effect, providing property owners with additional time to comply with Compliance Orders. As a result, Housing Code violations may persist longer than they should. Both Code Enforcement and property owners should be held accountable for meeting Compliance Dates.

Code Enforcement recently implemented its San Jose Code Enforcement System, which is a case management system. This system can help improve Inspector follow-up. With this new system, Inspectors enter Compliance Dates for each violation which are placed on a “to do” list. By default, the system presents the Compliance Dates in the “to do” list on the day they are due together with all past due violations. In addition, Inspectors can click on a calendar function to preview violation corrections due in future dates. According to Code Enforcement, it can use its case management system to produce a report that will alert Inspectors at a specified time prior to the Compliance Date that a reinspection is due. This will allow Inspectors to schedule reinspections prior to Compliance Dates elapsing.

We recommend that Code Enforcement:

Recommendation #3

Use its San Jose Code Enforcement System to produce a report to remind Inspectors at a specified time prior to the Compliance Date that a reinspection is due. (Priority 3)

Code Enforcement Needs To Ensure That Inspectors Resolve All Multiple Housing Cases In A Consistent And Appropriate Manner

Routine and complaint inspections are the main focus of the Multiple Housing Program. Based on our review of case files and direct observations of routine inspections, Code Enforcement has limited assurance that Inspectors are performing routine inspections in a consistent manner. We found that when Inspectors conduct routine inspections they do not always inspect the same items and the length of Compliance Orders varied from Inspector to Inspector. Code Enforcement also needs to develop procedures for assessing routine reinspection fees.

Inspectors May Not Be Performing Routine Inspections In A Consistent Manner

Code Enforcement has assigned 13 Inspectors to five service areas to perform inspections of about 6,200 multiple housing buildings with 65,000 units. Inspectors are responsible for inspecting multiple housing buildings for compliance with state housing laws and Municipal Code requirements at least once every six years. However, Code Enforcement has not documented how the Municipal Code requirements are linked to the routine inspection process or provided formal guidance to Inspectors on how to conduct routine inspections.

We observed Inspectors conducting routine inspections and found that they generally inspected the following items:

- Kitchen sinks for leaks and other deficient conditions, such as no hot water;
- Kitchen outlets for proper grounding and operational lighting fixtures;
- Stoves and exhaust fans for proper operation;
- Bathroom sink, tub, and toilets for leaks and other deficient conditions, such as no hot water;
- Bathroom ceilings and floors for mildew and deteriorated conditions;
- Bathroom outlets for proper grounding;
- Furnace;

- Smoke detectors for proper operation;
- Bedroom windows were functional;
- Front door deadbolt locks for proper height and type;
- Laundry rooms;
- Water heaters;
- Exterior railing and steps;
- Fire extinguishers with proper tags;
- Access to outside electrical panel;
- Outside building vents and lighting fixtures;
- Graffiti; and
- Other deteriorated conditions.

We found that the five Inspectors we observed performing routine inspections did not inspect all the same items. We noted that one Inspector did not check wall furnaces, while other Inspectors did. In another case, one Inspector noted telephone and cable television wires that were tacked along ceilings and walls as violations, while another Inspector did not make note of the same situation in another apartment. In another apartment complex, one Inspector turned on the stoves in each apartment to test for proper operation, while other Inspectors did not perform similar tests.

Code Enforcement provides training for Inspectors when they are first hired and on technical issues on a periodic basis. However, the Inspectors we interviewed indicated that Code Enforcement had provided them with limited guidance on how to perform routine inspections in a consistent manner. Some of the Inspectors told us they used a Multiple Housing Checklist designed to record violations as an informal guide while performing routine inspections. Inspectors also told us that they know what items to inspect based on the number of years doing their job or that they just knew “what to look at.” Another Inspector reported that no one really instructed him on how to perform a routine inspection for the Multiple Housing Program. Instead, he relied on inspection methods he performed for another program. Another Inspector told us that he learned how to perform a routine inspection from another Inspector or “learn as you go.”

Both the Building Division and San Jose Fire Department (SJFD) provide their staff with inspection checklists. The

Building Division has developed an Inspection Checklist For Single Family Residential Construction, which lists Uniform Building Code requirements regarding building, plumbing, mechanical, and electrical systems. Similarly, the SJFD has an Inspection Checklist For R-1 Occupancies (hotels and apartments) and inspection instructions, which provides fire fighters with a list of items inspected—exits, fire protection equipment, stairways, gas and electrical appliances, electrical, structural, storage, and trash containers. In our opinion, Inspectors need a checklist and formal instructions to follow when conducting routine inspections. More importantly, Inspectors need a document that establishes and documents their inspection responsibilities. This will help ensure that Inspectors are conducting their inspections and treating all multiple housing property owners consistently.

We recommend that Code Enforcement:

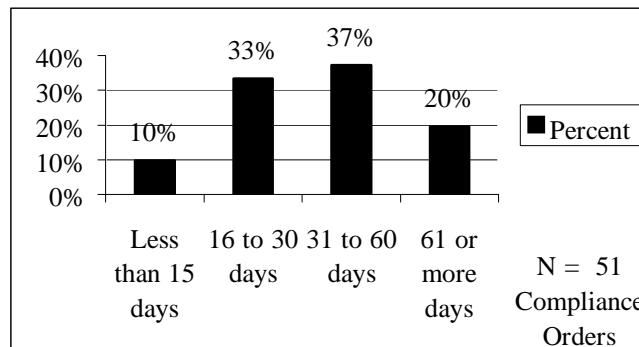
Recommendation #4

Develop a routine inspection checklist and instructions to document for Inspectors their inspection responsibilities and items to be inspected. (Priority 3)

Length Of Time For Property Owners To Correct Violations Varied

There is great disparity in the amount of time that Inspectors give property owners to correct violations. Our review revealed that Inspectors do not issue Compliance Orders for a consistent period of time. We found in our review of 51 Compliance Orders that Inspectors issued Compliance Orders for an average of 38 days, with a low of seven days to a high of 84 days. Exhibit 5 summarizes the amount of time Inspectors provided to comply with Compliance Orders.

Exhibit 5 Amount of Time Inspectors Provided To Comply With Compliance Orders



Source: Auditor analysis of Code Enforcement data.

We found no real logic in the compliance times Inspectors established. Inspectors use their own discretion when issuing Compliance Orders and deciding how much time to give property owners to correct violations. There is no supervisory review of Compliance Orders before Inspectors issue them. Supervisors typically review Compliance Orders when they approve closing the case. Code Enforcement has rather vague guidelines for Inspectors to follow when issuing Compliance Orders. These guidelines state that the “judgment of the Inspector is the most important factor in determining the time allowed for compliance.” Code Enforcement provides that for routine or complaint inspections, the Compliance Orders can range from as little as 24 hours to as much as 60 days—based on the nature and severity of the violations.

In addition, Inspectors may extend Compliance Dates, by issuing an Amended Compliance Order. Inspectors are only allowed to extend Compliance Orders in writing. Inspectors may extend Compliance Orders for such reasons as unexpected delays in getting repair parts, death or serious illness, or a property owner’s good faith efforts to comply.

We found that Inspectors did not always follow proper procedures regarding Amended Compliance Orders. In the 51 cases we reviewed where Inspectors issued Compliance Orders, we found seven cases (14 percent) where Inspectors extended Compliance Order Dates but did not issue required Amended Compliance Orders. For example, an Inspector extended a Compliance Order 30 days without filing an Amended Compliance Order. An Inspector’s failure to issue an Amended Compliance Order can hamper Code Enforcement’s ability to establish when compliance was due and when penalties begin to accrue should the need arise to bring the case before the Appeals Hearing Board.¹

Other Cities Provide Less Compliance Time

We found that other cities with multiple housing programs do not provide property owners with as much compliance time as does Code Enforcement. As shown in Exhibit 6, the cities of San Francisco, California; Los Angeles, California; and Dallas, Texas allow property owners a maximum of 30 days to correct violations. San Francisco allows property owners either seven, 15, or 30 days to make needed repairs. The City of Los Angeles typically allows 30 days for compliance, and requires Inspectors to obtain a supervisor’s approval for compliance times greater

¹ The Appeals Hearing Board is a seven-member citizen review board established to hear all administrative hearings and appeals authorized by the Municipal Code.

than 45 days. The City of Dallas generally gives property owners 15 days after the first inspection to correct illegal conditions. Violations requiring more than 15 days to correct must have a plan of action schedule. In addition, inspectors reinspect properties 30 days after the initial inspection.

Exhibit 6 Comparison Of The Compliance Time Code Enforcement Allows To Correct Violations To That Of Other Cities’ Multiple Housing Programs

Multiple Housing Program	Compliance Time Allowed
City of San Jose	24 hours to 60 days—phased, based on the nature and severity of violations. Compliance time can be extended beyond 60 days.
City of Dallas	15 days. Plan of Action Schedule required for compliance time more than 15 days.
City of Los Angeles	30 days. Supervisor approval required for compliance time more than 45 days.
City and County of San Francisco	7, 15, or 30 days.

Source: City Auditor’s Office.

Code Enforcement management could better control how much time Inspectors allow property owners to correct violations. Specifically, Code Enforcement should develop more specific guidelines for compliance times allowed for various violations, and require supervisory approval for any compliance times allowed over a set number of days. This should also help ensure that Inspectors treat all multiple housing property owners consistently.

We recommend that Code Enforcement:

Recommendation #5
Develop specific guidelines for compliance times allowed for various violations and when supervisory approval is required for Amended Compliance Orders and Compliance Orders issued for more than a set number of days.
(Priority 3)

**Code Enforcement
Needs To Develop
Reinspection Fees
Procedures**

We found that Code Enforcement lacks a policy and procedures for assessing reinspection fees related to multiple housing inspections. We asked Inspectors assigned to the multiple housing program what their understanding was regarding assessing reinspection fees. Inspectors' understanding of reinspection fees varied from their 1) having the flexibility to decide when to assess them; 2) not being required to assess them; 3) assessing them only after the third inspection; to 4) assessing them after only the fourth inspection. Most Inspectors indicated that they had assessed few if any reinspection fees during the last few years. Inspectors expressed that the primary reason for charging reinspection fees was if the property owner did not complete the work or stopped cooperating with Code Enforcement.

The Municipal Code provides that any inspection that finds non-compliance with state housing law pertaining to the maintenance of multiple housing buildings and should a reinspection be needed to determine compliance, the cost of such reinspection shall be billed to the owner. The cost of such reinspection is \$100.

*Limited Number Of
Reinspection Fees
Have Been Assessed*

During the last two years, Code Enforcement assessed a limited number of reinspection fees. Between July 1997 and May 1999, Inspectors only assessed 97 reinspection fees totaling \$9,250.²

In December 1998, Code Enforcement established a Reinspection Fee policy. This policy established the circumstances under which Inspectors were to assess reinspection fees. The new policy states that these Residential Occupancy Permit fees cover the initial inspection and a reinspection to verify compliance. Inspectors are required to assess a reinspection fee for any subsequent reinspections to verify compliance. This policy applies to both routine and complaint inspections. Because Code Enforcement recently developed this policy it has not developed any implementation procedures and we could not determine if Inspectors are complying with the new reinspection fee policy.

² In July 1998, the Reinspection Fee was increased from \$90 to \$100.

We recommend that Code Enforcement:

Recommendation #6

Develop procedures to ensure that Code Enforcement Inspectors assess Reinspection Fees in conformance with its new policy. (Priority 3)

Code Enforcement Can Better Communicate With Property Owners

An important Code Enforcement function is informing property owners of Housing Code requirements, violations observed, compliance dates, and penalties for non-compliance. We found that the communication tools Code Enforcement uses to inform property owners of program and compliance requirements need improvement. We found that Code Enforcement provides property owners with 1) limited guidance on the Housing Code and Multiple Housing Program requirements; 2) warning letters that are not clearly and consistently written; and 3) Tax Warning Notices that are overly confusing and heavy-handed.

Code Enforcement Provides Property Owners With Limited Guidance On Multiple Housing Program Requirements

Code Enforcement provides multiple housing property owners with limited information on multiple housing program requirements. Residential Occupancy Permit Renewal Notices and the Multiple Housing Newsletter are the main devices Code Enforcement uses to communicate program information to property owners. On an annual basis, Code Enforcement sends multiple housing property owners an Application for Residential Occupancy Permit Renewal Notice which property owners are to complete and return along with a self-certification of compliance with the San Jose Housing Code. Exhibit 7 shows a ten-point checklist and Exhibit 8 an accompanying explanation of Housing Code requirements that Code Enforcement sends to property owners.

Exhibit 7 Residential Occupancy Permit Renewal Notice Self-Certification Checklist

Location:
PLEASE NOTE ANY CHANGE OF MAILING ADDRESS:
Street _____
City/State/Zip _____
Telephone No. _____

Please inspect each dwelling unit to check for compliance with the San Jose Housing Code. Use the 10 items below and the explanation on the reverse side as a guide. After the inspection, place a check mark in each of the boxes below to indicate compliance with the Housing Code.

- 1. Hot and cold running water (17.20.290 D2 & 17.20.120)
- 2. Adequate heat (17.20.350)
- 3. Adequate electric service (17.20.360)
- 4. Adequate sewage disposal (17.20.290 D1)
- 5. Adequate control of insects and vermin (17.20.900 A10)
- 6. Adequate garbage service (17.20.900 A12)
- 7. Functioning smoke detectors (17.20.450)
- 8. Current inspection certificate tags on fire extinguishers (17.20.900 G2 & SJFC 10.301 A)
- 9. No roof leaks (17.20.310)
- 10. No overcrowded condition (17.20.270 B)

PLEASE READ CAREFULLY THE APPLICABLE CODE SECTIONS ON THE REVERSE SIDE OF THIS FORM BEFORE YOU SIGN. YOUR SIGNATURE INDICATES YOUR UNDERSTANDING OF AND COMPLIANCE WITH THE SAN JOSE HOUSING CODE.

Signature Date Phone #

Exhibit 8 Residential Occupancy Permit Renewal Notice Explanation Of Housing Code Requirements

COMPLIANCE WITH THE STATE HOUSING LAW AND THIS CODE REQUIRED

"Each building subject to this Chapter shall be in compliance with all the provisions of the State Housing Law and this Code which are applicable to the proposed use of the building including, but not limited to, provisions relating to construction, maintenance, sanitation, ventilation, use and occupancy of the building, zoning and fire." Compliance with all sections of the San Jose Housing Code includes, but is not limited to, the following:

1. Connection to an approved potable water system must be provided. Hot water of at least 110° must be provided.
2. Adequate heat of at least 70° F must be provided.
3. A safe electrical system free from any defects must be maintained.
4. Connection to an approved and functioning sewage disposal system is required.
5. Dwelling units must be maintained free from insect and rodent infestations.
6. Garbage service necessary for the weekly removal of all trash and garbage must be provided.
7. Each dwelling unit must be provided with a functioning smoke detector.
8. Required fire extinguisher must be inspected annually and have current inspection tags.
9. Dwelling units must be free of roof leaks.
10. Occupancy must not exceed two persons for the first 70 square feet of floor area and one additional person for each additional 50 square feet of floor area in all habitable rooms. Kitchens, bathrooms, hallways, closets and utility rooms are not considered habitable for required floor area purposes.

In our opinion, the self-certification document Code Enforcement sends to property owners does not adequately explain the purpose of routine Multiple Housing Program inspections, common violations found, or how the Housing Code requirements translate to actual housing inspections. For example, the self-certification checklist and accompanying guide specifies the need for "adequate electric service--a safe electrical system free from any defects must be maintained."

The inherent limitation in this guidance is that it does not indicate how an Inspector will check for adequate electrical service. We observed Inspectors during routine inspections noted electrical system violations, such as missing outlet cover plates, improperly grounded outlets, missing or broken electrical fixtures, and improperly installed lighting fixtures.

In addition, the self-certification document indicates that property owners must comply with all sections of the San Jose Housing Code, which includes, but is not limited to, the ten items listed on the checklist document. Likewise, we observed Inspectors finding violations involving the height of deadbolt locks and water heater strapping requirements—items that Code Enforcement does not mention in its ten-point checklist.

*Multiple Housing
Newsletter Is A
Good Tool To
Provide Information
To Property Owners*

In December 1997 and December 1998, Code Enforcement developed a Multiple Housing Newsletter, which it included in the annual Application for Residential Occupancy Permit Renewal Notice. Code Enforcement published the newsletters to “better inform holders of Residential Occupancy Permits about . . . Code Enforcement programs and other issues of interest to property owners and managers.” The most recent newsletter included articles on San Jose’s Residential Seismic Safety Program and proper strapping for water heaters, new security regulations for exterior doors, and crime prevention and management resources. In our opinion, Code Enforcement needs to continue to publish these newsletters, but also should seek to enhance the content to include more specific information on the most common violations found. For instance, Code Enforcement could include a list of the ten most common violations identified during routine inspections.

We recommend that Code Enforcement:

Recommendation #7

Develop and provide multiple housing property owners with information on the most common Housing Code violations identified during routine inspections. (Priority 3)

*Los Angeles,
California Provides
More Detailed
Guidance*

We also identified that Los Angeles, California prepares a detailed manual for multiple housing property owners. The document entitled, Preparing Residential Property For The Housing Habitability Inspection, is a seven-page handout which informs property owners of the most frequently found deficiencies during multiple housing inspections. The

document is written in straightforward language and provides property owners with specific Fire and Life Safety Code, Building Code, Electrical Code, Plumbing Code, Heating and Ventilation Code, and Health Code requirements. For example, the Electrical Code section, includes the following requirements:

- Maintain the building free from exposed wiring.
- Maintain or install approved hard-wired Smoke Detectors at the required locations. (Sleeping rooms and those corridors or areas giving access to them).
- Maintain all electrical equipment, including the service panel, subpanels, conduits, wiring, switches, outlets, and fixtures in good repair.
- Maintain electrical panel boards and fuse holders properly fused. Maintain no fused neutral conductors.
- Maintain all electrical switches, receptacles and other outlets with protective plates.
- Maintain all electrical outlets in bathrooms, and all electrical outlets in kitchens located within 6 feet of sinks, with ground fault interruption protection.
- Maintain all unused openings in electrical boxes, panels or other electrical equipment properly sealed.
- Maintain all electrical equipment, including panels, boxes, conduits and fixtures securely mounted to the surface upon which it is fixed.
- Maintain the electrical wiring in any building with four or more stories free from nonmetallic sheathed cable, such as romex.
- Maintain the building free from cord wiring used as a substitute for permanent wiring.

By way of comparison, Code Enforcement's guidance to property owners regarding electrical systems is limited to: "A safe electric system free from any defects must be maintained . . . Each dwelling unit must be provided with a functioning smoke detector."

In addition, the Apartment Association of Greater Los Angeles distributes the handout at a property management class for property owners who do not comply with violation notices in a timely manner. The Tri-County Apartment Owners' Association is a comparable local organization that represents

the local rental housing industry and provides members with educational material on property management. In our opinion, Code Enforcement should work with the Tri-County Apartment Owners' Association to provide multiple housing property owners with information on program requirements.

We recommend that Code Enforcement:

Recommendation #8

Provide multiple housing property owners with more detailed information on Multiple Housing Program requirements. Additionally, Code Enforcement should work with a local organization such as the Tri-County Apartment Owners' Association to develop and distribute Multiple Housing Program information to multiple housing property owners. (Priority 3)

Code Enforcement Transmits Tax Warning Notices That Are Confusing And Heavy-Handed

When Code Enforcement issues a Compliance Order for a multiple housing violation, it also sends a Tax Warning Notice as a cover letter. This notice does not provide the property owner with information about the violation(s) observed, corrective actions required, or explain the requirements of the Compliance Order. As shown below, the language in the Tax Warning Notice is confusing and heavy-handed. Specifically, the notice (sections 3 and 4) advises the property owner of Franchise Tax Board penalty sanctions if compliance is not achieved within six months. In addition, the six-month compliance time cited, almost always conflicts with the compliance time the Inspector specifies in the Compliance Order—typically 60 days or less. As a result, the Tax Warning Notice may cause some property owners to believe they actually have six months to correct violations when in fact they only have two months or less.

Exhibit 9 Tax Warning Notice

TAX WARNING NOTICE

(Revenue & Taxation Code S24436.5 and S17274)

DATE:

TO:

The Department of Planning, Building and Code Enforcement of the City of San Jose has determined that the following property located in the City of San Jose, County of Santa Clara, State of California, is being maintained as **substandard housing**:

§

PROPERTY ADDRESS:

The accompanying Compliance Order sets forth the violations of the San Jose Municipal Code dealing with health, safety or building conditions which have been revealed by the investigation of the Code Enforcement Division.

If you fail to make the repairs indicated or otherwise bring the property into a condition of compliance within six months of the date of this Compliance Order, the Department of Planning, Building and Code Enforcement will invoke procedures to advise the Franchise Tax Board of the State of California of your non-compliance with Code with regard to this property.

§

Please be advised that the above Warning is for purposes of compliance with the State Revenue and Taxation Code **only**. Compliance with Municipal Codes as noted on the enclosed Compliance Order must be made within the time specified on such Order.

THE FILING OF A NOTICE OF NON-COMPLIANCE WITH THE FRANCHISE TAX BOARD WILL RESULT IN YOUR LOSING THE RIGHT TO DEDUCT FOR INTEREST, DEPRECIATION, TAXES, OR AMORTIZATION ON YOUR STATE INCOME TAX FILINGS RELATING TO THE SUBSTANDARD PROPERTY!

R

CODE ENFORCEMENT DIVISION

Code Enforcement Inspector

In our opinion, the Tax Warning Notices Code Enforcement sends to property owners are also heavy-handed because they make blanket statements about the subject property. Regardless of the number of violations observed, the notice states that the property “is being maintained as substandard housing” (section §).

According to a Code Enforcement Supervisor, the Franchise

Tax Board referral procedures detailed in the Tax Warning Notice have not been invoked within the last five years. Code Enforcement developed the referral process when it lacked the enforcement tools it currently has, such as the Appeals Hearing Board, to use against non-compliant property owners. Accordingly, Code Enforcement has not used the Franchise Tax Board referral because Code Enforcement tries to resolve substandard housing issues in less than six months. In our opinion, Code Enforcement should discontinue the use of the Tax Warning Notice as a cover letter. Instead, Code Enforcement should develop a more customer friendly cover letter that explains the Compliance Order and provides the property owner with information on the inspection process and what actions are required by what dates. According to the Tri-County Apartment Owners' Association, multiple housing property owners frequently complain that Code Enforcement does not provide sufficient Compliance Order information.

We recommend that Code Enforcement:

Recommendation #9

Discontinue using Tax Warning Notices and develop a Compliance Notice cover letter that informs property owners of the inspection process and what actions are required by what dates. (Priority 3)

*Code Enforcement
Can Make Its
Warning Letters
More Consistent And
Clear*

We found that Code Enforcement does not write its warning letters to property owners consistently or clearly. Most of the warning letters Code Enforcement sends to property owners do not specify when the Inspector observed the violation or the specific date when the property owner was to correct the violation. We found only one case where a warning letter provided a property owner with specific information on the date the Inspector observed the violation and when the property owner was to fix the problem. Most of Code Enforcement's warning letters cited that compliance was expected within ten days of the notice. However, the warning letters do not clearly state if the ten days refers to the date on the notice or the date the property owner receives the warning letter. In our opinion, Code Enforcement should prepare warning letters in a consistent manner and clearly state the specific date the Inspector observed the violation and the date the property owner is to correct the violation(s).

We recommend that Code Enforcement:

Recommendation #10

Develop a warning letter which clearly states the date the Inspector observed violation(s) and the date the property owner is to correct the violation(s). (Priority 3)

Code Enforcement Needs To Coordinate Multiple Housing Inspections More Closely With Other Entities

There are opportunities for Code Enforcement, the San Jose Fire Department (SJFD) and the County of Santa Clara (County) to discuss areas of mutual concern regarding inspections of multiple housing buildings. Both the SJFD and the County each have inspection programs related to multiple housing buildings. The SJFD inspects these buildings for fire-safety related issues, while the County inspects public swimming pools, many of which are located in multiple family building complexes. In our opinion, Code Enforcement should meet with both groups to discuss areas of common interest and methods to improve each other's inspection programs.

Specifically, the SJFD inspects multiple housing buildings categorized as R-1 occupancies—most of the same buildings Code Enforcement inspects. On an annual basis, the SJFD is supposed to inspect multiple housing buildings for any condition that may cause a fire or contribute to its spread. Typically, the SJFD will inspect the perimeter and interior corridors of multiple housing buildings for compliance with State requirements regarding items such as fire extinguishers, exit lighting, and storage of hazardous chemicals. On the other hand, the County's Department of Environmental Health is supposed to inspect public swimming pools three times per year. Many of the swimming pools are located in multiple family complexes. The swimming pool inspections cover safety-related issues, such as fencing and gates, pool chemistry (proper pH balance), and other equipment related issues (filtration system).

Code Enforcement Should Coordinate Inspections With The SJFD

Possible areas for increased coordination and cooperation between Code Enforcement and SJFD may include swimming pool inspections and water heaters. According to Code Enforcement officials, as part of a routine inspection, Inspectors are supposed to inspect water heaters and swimming pools to ensure they are properly enclosed (have a fence of correct dimensions), and pool area entrance gates for self-closure and self-latching. Since Code Enforcement inspects most multiple housing buildings on a six-year cycle, Inspectors will check

swimming pool gates about once every six years.³ On the other hand, the SJFD is conducting annual fire safety checks of many of the same multiple housing buildings. In our opinion, SJFD personnel could be trained to inspect swimming pool gates to ensure compliance with the Municipal Code. We believe that more frequent inspections of swimming pool enclosures and gates would increase swimming pool safety and provide added protection to multiple housing tenants.

Code Enforcement Should Coordinate Inspections With The County

Code Enforcement also needs to coordinate their inspections related to swimming pool issues with the County. Because the County specializes in swimming pool inspections, it would be a good source of information on current laws pertaining to swimming pools, industry practices, and training staff how to properly inspect swimming pools. In addition, Code Enforcement and the County should meet to discuss the similarities and differences in their inspection programs. A County Department of Environmental Health Supervisor, who oversees County swimming pool inspections, told us that recently a property owner was reluctant to make corrections because the City had given the owner conflicting instructions. In our opinion, Code Enforcement needs to meet with the County’s Department of Environmental Health officials to discuss and coordinate swimming pool inspections. By doing so, Code Enforcement can greatly increase the effectiveness of multiple housing swimming pool inspections.

We recommend that Code Enforcement:

Recommendation #11

Meet with the SJFD and the Santa Clara County Department of Environmental Health to discuss areas of mutual concern such as inspections of multiple housing building swimming pools, swimming pool fences, and water heater strappings. (Priority 3)

CONCLUSION

Code Enforcement has improved its timeliness for issuing Compliance Orders. However, opportunities exist for Code Enforcement to conduct multiple housing inspections more efficiently and resolve Housing Code violations more effectively. Specifically, Code Enforcement should provide Inspectors with formal timeframes for responding to complaints

³ The exception to this practice is if Code Enforcement receives a specific complaint about a swimming pool.

and verifying compliance. Code Enforcement should also require supervisory approvals when Inspectors grant Compliance Order extensions beyond a set number of days. Further, Code Enforcement should develop procedures for implementing its new reinspection fee policy. In addition, Code Enforcement needs to inform multiple housing property owners of program requirements. Finally, Code Enforcement should meet with the SJFD and the County of Santa Clara's Department of Environmental Health to better coordinate their mutual inspections of multiple housing buildings. These changes will improve the efficiency and effectiveness of Code Enforcement's multiple housing inspections and ensure consistent treatment for multiple housing property owners.

RECOMMENDATIONS

We recommend that Code Enforcement:

- Recommendation #1** Clarify complaint response guidelines for multiple housing inspectors to follow when responding to complaints and have Code Enforcement Supervisors monitor complaint response times more closely. (Priority 3)
- Recommendation #2** Establish specific timeliness standards regarding follow-up inspections. (Priority 3)
- Recommendation #3** Use its San Jose Code Enforcement System to produce a report to remind Inspectors at a specified time prior to the Compliance Date that a reinspection is due. (Priority 3)
- Recommendation #4** Develop a routine inspection checklist and instructions to document for Inspectors their inspection responsibilities and items to be inspected. (Priority 3)
- Recommendation #5** Develop specific guidelines for compliance times allowed for various violations and when supervisory approval is required for Amended Compliance Orders and Compliance Orders issued for more than a set number of days. (Priority 3)
- Recommendation #6** Develop procedures to ensure that Code Enforcement Inspectors assess Reinspection Fees in conformance with its new policy. (Priority 3)

- Recommendation #7** **Develop and provide multiple housing property owners with information on the most common Housing Code violations identified during routine inspections. (Priority 3)**
- Recommendation #8** **Provide multiple housing property owners with more detailed information on Multiple Housing Program requirements. Additionally, Code Enforcement should work with a local organization such as the Tri-County Apartment Owners' Association to develop and distribute Multiple Housing Program information to multiple housing property owners. (Priority 3)**
- Recommendation #9** **Discontinue using Tax Warning Notices and develop a Compliance Notice cover letter that informs property owners of the inspection process and what actions are required by what dates. (Priority 3)**
- Recommendation #10** **Develop a warning letter which clearly states the date the Inspector observed violation(s) and the date the property owner is to correct the violation(s). (Priority 3)**
- Recommendation #11** **Meet with the SJFD and the Santa Clara County Department of Environmental Health to discuss areas of mutual concern such as inspections of multiple housing building swimming pools, swimming pool fences, and water heater strappings. (Priority 3)**

Finding II

Code Enforcement Has Not Imposed Municipal Code Required Penalties And Interest For Delinquent Residential Occupancy Permit Fees

Code Enforcement annually issues \$24.50 per unit Residential Occupancy Permits (Permit). The San Jose Municipal Code prescribes when Permit fee payments are considered late and the penalties and associated interest. Our audit revealed that Code Enforcement has not imposed delinquent penalties and interest for Permit fees in accordance with Municipal Code requirements. Specifically, we found that Code Enforcement did not record late payments or assess approximately \$11,000 in Code required penalties and interest. In addition, we found that Code Enforcement is 1) not promptly billing account holders applicable penalties and interest; 2) not resolving delinquent accounts in a timely manner; and 3) not following proper procedures for settling outdated accounts. In our opinion, Code Enforcement should 1) revise its current practice for imposing penalties and interest on delinquent Permit fees; 2) develop procedures for identifying late payments; 3) immediately bill Permit holders for any penalties and interest assessed; 4) establish procedures for processing delinquent fees; 5) inform staff of established procedures for resolving revoked Permits; and 6) refer long outstanding and outdated accounts to the Treasury Division (Treasury) for disposition. By so doing, Code Enforcement will be in compliance with the Municipal Code, increase revenues, and enhance the collection of delinquent accounts.

Residential Occupancy Permit Fees

To pay for the Multiple Housing Program, Code Enforcement issues Permits annually for all properties in its Roster. The Permit fee is currently set at \$24.50 per unit, \$18.70 per unit goes to recover Code Enforcement's cost and \$5.35 per unit goes to partially recover the Fire Department's cost of providing fire inspection services to multiple housing units. Renewal notices are sent out to Permit holders on November 15th and become delinquent if not postmarked by December 31st. In 1999, Code Enforcement issued Permits for approximately 6,200 buildings with approximately 65,000 units, which resulted in approximately \$1.5 million in revenues.

Property owners send Permit payments to a lock box for bank processing. On a daily basis, the bank processes all payments received except credit card payments, partial payments, and payments without invoices which the bank transmits to

Treasury for processing. At the end of the day, the bank sends to Treasury a hard copy report of the accounts processed, including check number and payment amounts, invoices and accompanying envelopes, and any additional correspondence received. In addition, the bank transmits electronically information on accounts processed, which is used to update the record system. The next day, Treasury should verify the payments the bank processed and in-house processed payments.

**Municipal Code-
Prescribed
Penalties**

Municipal Code Section 1.17.080 prescribes that:

The payment of a fee...that is received by the city after the date required for payment shall be deemed timely made to the city if...the payment of the fee...is contained in an envelope addressed to the city that bears a postmark or postage cancellation mark of the U.S. Postal Service evidencing that the payment was deposited in the United States mail, postage prepaid, on or before the date required for payment.

The same Municipal Code section also applies to payments that are “sent to the City via personal delivery or courier service on or before the date required for payment.”

A Senior Account Clerk at Code Enforcement has been assigned the responsibility for processing Residential Occupancy Permit Renewal Notices, including processing delinquent payments. The Permit payments are due December 1st and become delinquent if not postmarked by December 31st. Code Enforcement will send 30 and 60-day late notices with applicable penalties to delinquent account holders. For example, if payments are not postmarked by December 31st, 30-day late notices are supposed to be sent out around January 15th. If payments are not postmarked by January 31st, 60-day late notices are supposed to be mailed out around February 15th with payments due by February 28th. If payments are not postmarked by the latter date, the Senior Account Clerk is supposed to prepare a final list of delinquent accounts for the Multiple Housing Supervisor. Exhibit 10 shows penalties associated with late payments.

Exhibit 10 Residential Occupancy Permit Payments

	Renewal Notices Due	If Postmarked Between	If Postmarked Between
Due Date	December 31 st	January 1 st and 31 st	February 1 st and 28 th
Penalty Amount		25 percent of principal.	50 percent of principal and 1.5 percent interest per month on the principal.

NOTE: The Municipal Code has established that if a payment due date falls upon a Saturday, Sunday, or holiday observed by the City, the payment may be made on the next business day that the Finance Department is open to the public without penalty.

Appeals Hearing Board May Revoke Delinquent Accounts

If the Permit remains unpaid, the Appeals Hearing Board (Board) may revoke the Permit. Prior to any Board action, a Code Enforcement Inspector (Inspector) verifies that tenants who live in a building with the delinquent account still occupy the building. The Inspector should inform the Permit holder that the Permit is delinquent and that it may be revoked. If the Permit holder does not make payment by the deadline date a Code Enforcement Supervisor specifies, Code Enforcement sends the Permit holder a Notice of Intent to Revoke Residential Occupancy Permit and Notice of Appeals Hearing Board Hearing. If the Permit holder does not make payment by the hearing date, the Inspector is to present the delinquent account to the Board and request that the Board revoke the Permit. Once the Board revokes a Permit, the Permit holder is subject to a \$633 Reinstatement Fee.

Code Enforcement Does Not Record Late Payments

We determined that Code Enforcement’s policy is not to impose penalties and interest on certain late payments. Code Enforcement does not assess penalties and interest on Permit fee payments received between the delinquent date (31st of the month) and the tenth of the month. The latter date is when the Information Technology Department (IT) updates the delinquency list for Code Enforcement. According to Code Enforcement staff, Permit payments received between the 1st and 10th are recorded as being on time because Code Enforcement is not capturing information on payment timeliness.

As reported, the Renewal Notices are past due if they are not postmarked by December 31st. IT does not print 30-day delinquent notices until the evening of January 10th. According

to Code Enforcement staff, if a Permit holder pays their Permit fee after the due date but prior to the 10th of the following month, Code Enforcement will accept the late payment as being timely. Code Enforcement does this even though the Municipal Code defines the payment as being late and requires a 25 percent late payment penalty. According to staff, Code Enforcement does not impose a 50 percent penalty and 1.5 percent interest for Permit holders that pay their 60-day delinquent notice by March 10th, even if they are postmarked after February 28th. This practice is in variance with the Municipal Code, which requires that penalties and interest be imposed on late payments.

We recommend that Code Enforcement:

Recommendation #12

Revise its practice of not imposing penalties and interest for certain Residential Occupancy Permit fee late payments to be consistent with Municipal Code requirements. (Priority 2)

Code Enforcement Does Not Record Postmark Dates

We found that Code Enforcement does not record postmark dates to ascertain payment timeliness. Neither the bank, Treasury, nor Code Enforcement record or review envelopes for postmark dates. Further, as a general practice, Code Enforcement does not retain all postmarked envelopes received. Any envelopes that Code Enforcement does retain cannot be automatically linked to invoices or account numbers. The bank, which processes the Permit payments, records the date when payments were received, but not the postmark date. This problem is further exacerbated by the Multiple Housing Permit VAX system which does not update records until the evening of the tenth, when it adds delinquent penalties and interest to outstanding accounts.

Code Enforcement has been aware of this payment timeliness problem for some time. On December 4, 1997, Code Enforcement and Treasury met to discuss the processing of Permit payments. At the meeting, Code Enforcement learned that it had to determine how to charge penalties and interest—either from the postmark date or date received. In addition, Treasury informed Code Enforcement that, unlike the Multiple Housing Permit system, the business tax system had late payment codes and lockbox control tables. In our opinion,

Code Enforcement should work with Treasury to develop procedures for capturing Permit fee late payment information.

We recommend that Code Enforcement:

Recommendation #13

Work with the Treasury Division to establish a process to identify and assess applicable penalties and interest on all payments postmarked after the due date. (Priority 2)

Estimated Value Of Penalties And Interest Not Imposed in 1999

In order to determine the value of the penalties and interest Code Enforcement did not charge to delinquent accounts, we reviewed payments Code Enforcement received in January 1999 and February 1999. We found that Code Enforcement received about \$86,000 in Permit fees between January 1st and January 10th. We reviewed a limited sample of envelopes Code Enforcement retained for Permit fee payments it received during that period. We reviewed a sample of 81 envelopes and found that 29 envelopes (36 percent) were postmarked after December 31st and therefore late under Municipal Code requirements. If we assume that 36 percent of payments Code Enforcement received from January 1st to January 10th were late, we estimate Code Enforcement did not impose about \$7,700 in required penalties.

In addition, we found that Code Enforcement received \$18,000 in Permit fee payments between February 1st and February 10th. If we assume that 36 percent of these payments were also late, we estimate that Code Enforcement did not impose about \$3,300 in penalties and interest. As a result, we estimate that in 1999 Code Enforcement did not impose about \$11,000 in late payment penalties and interest.

Unpaid Penalties And Interest Balances Are Not Billed In A Timely Manner

We found that in certain situations Code Enforcement does assess penalties and interest on late payments. However, Code Enforcement does not bill the account holders in a timely manner for any penalties and interest imposed. Specifically, we found that when Code Enforcement does assess a penalty, it includes that penalty amount in next year's Renewal Notice mailing. This is because Code Enforcement's computer system only prints out a delinquency notice when the property owner does not pay the Permit fee itself. Code Enforcement's

computer system will not print out a delinquency notice when only penalties or interest are due.

We found that property owners owed \$5,541 in penalties alone. Code Enforcement will include these amounts in next year's Renewal Notice. In our opinion, Code Enforcement should not wait until the following year's renewal notice billing to pursue these unpaid accounts. Instead, Code Enforcement should immediately bill property owners for any and all amounts due. By doing so, all property owners who owe assessed penalties or interest will receive prompt notification of late payments.

We recommend that Code Enforcement:

Recommendation #14

Immediately bill property owners for late penalties and interest assessed on delinquent Residential Occupancy Permit fees. (Priority 2)

Code Enforcement Does Not Process Delinquent Accounts In A Timely Manner

We also found that Code Enforcement needs to pursue delinquent Permit Fee accounts in a more timely manner, including revoked Permits. We found that Code Enforcement staff did not prepare a final list of delinquent Permit holders for the Multiple Housing Supervisor until May 12, 1999. In our opinion, Code Enforcement could have prepared this list in a more timely manner. Specifically, Code Enforcement could have prepared the list around March 10th – about 10 days after the 60-day delinquent notice due date. As a result, Code Enforcement did not pursue delinquent accounts for over two months and Permit holders have not paid their delinquent accounts.

Code Enforcement has not established procedures for processing delinquent Residential Occupancy Permits. Code Enforcement has no procedures that specify when certain Code Enforcement actions need to occur, such as when to send out 30 and 60-day notices or when to prepare final delinquent reports. In addition, Code Enforcement's procedures for investigating delinquent Permit holders do not have specific timeframes. As a result, Inspectors do not have formal guidance for determining appropriate final dates by which Permit holders must pay any delinquent amounts.

We recommend that Code Enforcement:

Recommendation #15

Establish procedures for processing delinquent Residential Occupancy Permits, including the specific timeframes for preparing delinquent notices. (Priority 3)

Code Enforcement Does Not Pursue Revoked Permits

In May 1998, the Board revoked Permits for three properties for non-payment of \$2,300 in Permit fees, penalties, and interest. Code Enforcement Procedures specify that once a Permit is revoked, Inspectors must verify that tenants still occupy the building and issue a Compliance Order that gives the Permit holder 45 days to pay outstanding fees or vacate the building. We found that Code Enforcement did not follow their own procedures regarding pursuing accounts after Board Permit revocation. In all three cases where the Board revoked a Permit in May 1998, Code Enforcement did not take appropriate action until 1999. Code Enforcement's actions for these three cases are summarized below:

- On June 19, 1998, the Permit holder paid \$1,267 of the \$1,288 owed. However, the Permit holder did not pay the Reinstatement Fee due of \$593.50. Code Enforcement did not take any further action to collect the Reinstatement Fee due or the remaining balance of \$21 until March 16, 1999, nearly nine months later, when it issued a Compliance Order requesting payment by April 30, 1999. On April 28, 1999, the Permit holder paid \$927 in 1999 fees and penalties plus a \$633⁴ Reinstatement Fee to make the account current.
- On January 5, 1999, the Permit holder paid the 1999 fees due on the account plus a \$633 Reinstatement Fee. According to Code Enforcement, the Permit holder claims he is not responsible for the 1998 fee of \$842 because the previous owner of the property owed the money. There is no documentation in the case file of any additional Code Enforcement action to resolve the outstanding \$842 fee.
- A Permit holder did not pay their 1998 Permit Fee, penalties and interest of \$177, or a \$633 Reinstatement Fee. The case folder indicated that no action was taken until Code Enforcement assigned the case to an

⁴ The Reinstatement Fee was \$593.50 in 1998 and \$633.00 in 1999.

Inspector on December 9, 1998. The building changed ownership on December 14, 1998. On February 3, 1999, the Inspector issued a Compliance Order to require the Permit holder to either vacate the building or have the Permit reinstated. On February 10, 1999, the new owner paid all the outstanding fees.

We recommend that Code Enforcement:

Recommendation #16

Inform all Multiple Housing Inspectors and Supervisors of established procedures for resolving revoked Residential Occupancy Permit cases and ensure that staff follow-up on revoked Permits in a timely manner. (Priority 2)

Code Enforcement Is Maintaining Outdated Accounts That May Need To Be Written Off

Code Enforcement is maintaining outdated multiple housing accounts. There are 176 outdated accounts totaling about \$75,000.⁵ These outdated accounts are between eight and fourteen years old and range from \$65 to \$2,000 in delinquent amounts. These accounts are the result of Permit holders neglecting to pay their Permit fees and then selling the buildings in question. When this occurred, Code Enforcement would invoice the new owner for the new year's Permit fees, but not the delinquent fees or penalties and interest. Consequently, these outdated accounts accumulated penalties and interest against the original owner, not the current owner. For example, in 1990 and 1991, a Permit holder did not pay \$1,065 in Permit fees, penalties, and interest. In 1991, the building was sold and Code Enforcement billed the new owner \$366 in Permit fees, which the new owner paid. Code Enforcement did not bill the new owner for \$1,065 in outstanding fees and penalties. Since 1991, the current owner has paid annual Permit fees on a timely basis. However, penalties and interest have continued to accumulate against the original owner for the unpaid amount. As of February 10, 1999, the balance in this particular account was \$1,998.

Code Enforcement needs to follow proper procedures for settling these outdated accounts. The Finance Accounting Manual specifies that at three-month intervals, the Treasury should purge its accounts receivable of accounts that the Finance Department and/or the City Attorney's Office deems to be uncollectable. The Municipal Code specifies that the Director of Finance must approve the writing-off of accounts

⁵ In some cases, the same person holds more than one account.

receivables with amounts \$5,000 and under, while the City Council must approve writing-off accounts receivables with amounts exceeding \$5,000.

We recommend that Code Enforcement:

Recommendation #17

Refer long outstanding and outdated Residential Occupancy Permit fee accounts to the Treasury Division for appropriate disposition. (Priority 2)

Benefits

By implementing Recommendations 12 through 17, Code Enforcement will be in compliance with Municipal Code Section 1.17. In addition, Code Enforcement will generate an estimated \$11,000 per year in additional penalties and interest on delinquent Permit fees. Further, Code Enforcement will improve its chances of collecting delinquent Permit fees.

CONCLUSION

Code Enforcement’s current practices regarding delinquent Permit fees are not in compliance with the Municipal Code or Code Enforcement’s own procedures. As a result, Code Enforcement has not imposed Municipal Code-required penalties and interest, Permit holders have not paid their Renewal Notices, and Code Enforcement has not penalized them for not doing so. By complying with the Municipal Code and its own procedures, Code Enforcement will generate additional revenue and reduce the number of delinquent Permit fee accounts.

RECOMMENDATIONS

We recommend that Code Enforcement:

Recommendation #12 **Revise its practice of not imposing penalties and interest for certain Residential Occupancy Permit fee late payments to be consistent with Municipal Code requirements. (Priority 2)**

Recommendation #13 **Work with the Treasury Division to establish a process to identify and assess applicable penalties and interest on all payments postmarked after the due date. (Priority 2)**

- Recommendation #14** Immediately bill property owners for late penalties and interest assessed on delinquent Residential Occupancy Permit fees. (Priority 2)
- Recommendation #15** Establish procedures for processing delinquent Residential Occupancy Permits, including the specific timeframes for preparing delinquent notices. (Priority 3)
- Recommendation #16** Inform all Multiple Housing Inspectors and Supervisors of established procedures for resolving revoked Residential Occupancy Permit cases and ensure that staff follow-up on revoked Permits in a timely manner. (Priority 2)
- Recommendation #17** Refer long outstanding and outdated Residential Occupancy Permit fee accounts to the Treasury Division for appropriate disposition. (Priority 2)

CITY OF SAN JOSÉ — MEMORANDUM

TO: Gerald A. Silva

FROM: James R. Derryberry

SUBJECT: SEE BELOW

DATE: August 13, 1999

RECEIVED

APPROVED:

Ray Winer

DATE: 8/13/99

AUG 13 1999

CITY AUDITOR

SUBJECT: The Administration's Response to *An Audit of the Multiple Housing Inspection Program*

BACKGROUND

The Department of Planning, Building and Code Enforcement has reviewed the audit report. In general, the Department agrees with the findings of the audit. Specific responses to the recommendations are listed below.

Recommendation #1: *Clarify complaint response guidelines for multiple housing inspectors to follow when responding to complaints and have Code Enforcement Supervisors monitor complaint response times more closely.*

The Department concurs with this recommendation. The Code Enforcement Division uses complaint response guidelines that were established prior to having a computer system that could effectively measure response times. With its new Code Enforcement System (CES), the Division will be able to monitor the staff's performance in meeting its goals. The prior system recorded only the dates a case was either opened or closed. Inspectors now document when each activity (warning letter, inspection, compliance order, etc) occurs. The Division will generate reports that show the complaint response time for each inspector. These reports will be used by supervisors to more closely monitor performance. The Department will also evaluate case workload and current response guidelines. It may mean that the guidelines will need to be modified to be sure that they can be reasonably achieved by Inspectors.

Recommendation #2: *Establish specific timeliness standards regarding follow-up inspections.*

The Department concurs with this recommendation. Procedures will be developed to clarify standards for follow-up inspection timeliness. Aging reports are being developed from the CES system to help Supervisors identify, track and manage cases that remain open longer than established time frames. In addition, the Division will establish guidelines for the appropriate time allowed to obtain compliance on various types of violations.

Recommendation #3: *Use its San Jose Code Enforcement System to produce a report to remind Inspectors at a specified time prior to the Compliance Date that a reinspection is due.*

The Department concurs with this recommendation. Individual dwelling units within multiple housing buildings must be made available to the Inspector before a re-inspection of a unit can be conducted. The Division is in the process of developing a report from CES that will notify Inspectors of all cases with upcoming compliance dates--two weeks prior to the due date on the compliance order. This report will provide sufficient early warning of pending due dates so that Inspectors can contact building owners, managers and tenants to arrange access to dwelling units for timely reinspections.

Recommendation #4: *Develop a routine inspection checklist and instructions to document for Inspectors their inspection responsibilities and items to be inspected.*

The Department concurs with this recommendation. The Code Enforcement Division will develop a multiple housing inspection checklist similar to the "Inspection Check List for Single Family Residential Construction" developed by the Building Division in 1998.

Recommendation #5: *Develop specific guidelines for compliance times allowed for various violations and when supervisory approval is required for Amended Compliance Orders and Compliance Orders issued for more than a set number of days.*

The Department concurs with this recommendation. Generally, timeline guidelines are understood and followed by Inspectors but these concepts have not been formally written down in procedures.

It should be noted that there is great variation in the degree and severity of code violations found upon inspection. San Jose's multi-family housing stock varies in age, type of construction, intensity of use and level of deferred maintenance. Individual violations of the same Code section can vary in severity and level of hazard presented depending upon the specific circumstances of each situation. Repairs to one type of construction or building may be considerably more difficult and complicated than similar repairs to another building. When Planning or Building permits are required to make repairs, reasonable timelines must take into account normal time frames for Planning and Building permit processes. Guidelines will need to be developed that are flexible enough to take into account the wide variation of potential violations.

Code Enforcement will develop guidelines to better ensure that Inspectors give all property owners reasonable and consistent time to correct code deficiencies. The procedure implementing the guidelines will require supervisor review for extensions beyond the set timelines. The procedure will also require the inspector to document the rationale for requesting the Supervisor to approve an exception to the guidelines.

Recommendation #6: *Develop procedures to ensure that Code Enforcement Inspectors assess Reinspection Fees in conformance with the new policy.*

The Department concurs with this recommendation and has developed new Reinspection Fee Procedures. These procedures have been implemented and were transmitted to Multiple Housing Program Inspection Staff during two staff meetings in May and June, 1999. Code Enforcement will develop a report that will be used to track reinspection fees authorized by inspector. The Supervisor responsible for managing the Program will use the report to monitor staff's use of reinspection fees to ensure they are being applied in a consistent manner.

Recommendation #7: *Develop and provide multiple housing property owners with information on the most common Housing Code violations identified during routine inspections.*

The Department concurs with this recommendation. The Supervisor for the Multiple Housing Inspection Program prepares a newsletter for distribution with the annual Residential Occupancy Permit fee billing. The billing is completed each November. This newsletter is used to provide information to property owners about Code Enforcement programs and other issues of interest to property owners and managers. Typical newsletters contain information about pending changes in state and local laws affecting rental property owners and City services, such as crime prevention programs and property owner training classes, that are available to help property owners deal with property management problems in San Jose. As suggested, the newsletter could include an article on the most common violations noted by Inspectors with some basic information on the various violations.

Recommendation #8: *Provide multiple housing property owners with more detailed information on Multiple Housing Program requirements. Additionally, Code Enforcement should work with a local organization such as the Tri-County Apartment Owner's Association to develop and distribute Multiple Housing Program information to Multiple Housing property owners.*

The Department concurs with this recommendation. Staff will review documents used by the City of Los Angeles and work with the Tri-County Apartment Owners' Association to produce a similar document that meets the needs of local rental property owners and managers. Staff will also assess the cost of reproducing the documents and determine if a budget augmentation will be necessary to implement this recommendation.

Recommendation #9: *Discontinue using Tax Warning Notices and develop a Compliance Notice cover letter that informs property owners of the inspection process and what actions are required by what dates.*

The Department concurs with this recommendation and has recently replaced the Tax Warning Notice with a cover letter that explains what the compliance order is, the Administrative Remedies enforcement process and the date by which all violations must be corrected. The name and phone number of the inspector are given as a contact for the property owner or manager if there are any questions concerning the compliance order or the administrative enforcement process. It should be noted that a number of years ago, the City Council gave direction to Code Enforcement to utilize the tax warning notice process as an additional method of compelling code compliance. However, this was before San Jose implemented the Administrative Remedies process. The Administrative Remedies process provides substantial financial incentive for property owners to address code violations. Therefore, the Administration concurs with the Auditor's recommendation to discontinue the use of Tax Warning Notices.

Recommendation #10: *Develop a warning letter which clearly states the date the Inspector observed violations(s) and the date the property owner is to correct the violation(s).*

The Department concurs with this recommendation. Warning letters will be changed to clearly state the date the violation was observed and the date by which the property owner is to correct the violations.

Recommendation #11: *Meet with the SJFD and the Santa Clara County Department of Environmental Health to discuss areas of mutual concern such as inspections of multiple housing building swimming pools, swimming pool fences and water heater strappings.*

The Department concurs with this recommendation. Code Enforcement staff will meet with County staff to develop an understanding of the differences between State regulations and municipal codes relating to pool enclosures and other areas of concern. Staff will work with the County Environmental Health Department to develop a mutual understanding of each agency's responsibilities for enforcing specific pool enclosure regulations. Closer coordination with the County will ensure that property owners receive accurate and consistent information from both City and County inspectors.

Working with the Bureau of Fire Prevention, Code Enforcement has already developed a process for sharing information between Departments. The Bureau of Fire Prevention is using this process for referring complaints of substandard conditions to Code Enforcement for resolution. Code Enforcement will meet with Fire Department staff to clarify enforcement issues and provide training on specific Housing Code violations that can be handled by Fire Inspectors.

Recommendation #12: *Revise its practice of not imposing penalties and interest for certain Residential Occupancy Permit fee late payments to be consistent with Municipal Code requirements.*

The Department concurs with this recommendation. Code Enforcement staff have already met with the Finance Department for guidance on how to develop procedures for capturing late payments and adjusting accounts. The Finance Department will need to provide ongoing assistance to Code Enforcement to facilitate the necessary procedural changes to accomplish proper accounting for late fee payments.

The Residential Occupancy Permit Billing System generates a delinquency report that shows the delinquent amount owned at the end of each invoice period. The report is not generated until 10 days after the end of the preceding invoice due date. The System currently does not calculate interest or penalty charges for late payments received between the due date and the date the report is generated. If a payment for the permit fee is received during this ten day window, the system recognizes it as a payment on time and does not calculate the additional penalty and interest that has accrued between the date paid and the 10th of the month. Because there is no additional calculation, the system does not produce an invoice for the additional penalties and interest.

Procedures will be developed to ensure that late payments are properly charged penalties and interest. Code Enforcement has verified that the Information Technology Department will be able to reprogram the Residential Occupancy Permit Billing System to capture late payments and insure that invoices are sent for all accounts that have unpaid interest or penalty amounts at the end of the billing cycle.

Recommendation #13: *Work with the Treasury Division to establish a process to identify and assess applicable penalties and interest on all payments postmarked after the due date.*

The Department concurs with this recommendation. Department staff have already met with Finance Department for guidance on how Code Enforcement can issue instructions to the bank for processing of payments to ensure that payments with late postmarks can be identified. Code Enforcement will work with the bank during the next annual billing cycle to insure that payments with late postmarks are identified.

Recommendation #14: *Immediately bill property owners for late penalties and interest assessed on delinquent Residential Occupancy Permit fees.*

The Department concurs with this recommendation. Residential Occupancy Permit billing cycle currently uses 3 types of billing notices: 1) the initial invoice; 2) the 30 day late notice, and; 3) a final notice for accounts more than 60 days late. Penalties are charged for permit fee payments over 30 days late and penalties and interest are charged for payments over 60 days late. Accounts with unpaid permit fee balances continue to accrue interest until all permit fees are paid. Once the permit fee has been paid, there is no additional accrual of penalties and interest for balances of unpaid interest or penalties.

The Residential Occupancy Permit Billing System generates a delinquency report that shows the delinquent amount owned at the end of each invoice period. The report is not generated until 10 days after the end of the preceding invoice due date. The System currently does not calculate interest or penalty charges for late payments received between the due date and the date the report is generated. If a payment for the permit fee is received during this ten day window, the system recognizes it as a payment on time and does not calculate the additional penalty and interest that has accrued between the date paid and the 10th of the month. Because there is no additional calculation, the system does not produce an invoice for the additional penalties and interest. Code Enforcement has verified that the Information Technology Department will be able to reprogram the Residential Occupancy Permit Billing System to accurately capture late payments and insure that invoices are sent for all accounts that have unpaid interest or penalty amounts at the end of the billing cycle.

Recommendation #15: *Establish procedures for processing delinquent Residential Occupancy Permits, including the specific timeframes for preparing delinquent notices.*

The Department concurs with this recommendation. The Department is currently processing delinquent permits by setting permit revocation hearings before the San Jose Appeals Hearing Board. This process has been used annually since 1997 for delinquent accounts over a specific dollar amount.

The procedures currently being used for processing delinquent accounts detail the actions to be taken but do not include specific timelines for each step in the process. Formal procedures with timeframes will be developed and implemented for the next annual billing cycle. The new cycle will begin in November, 1999.

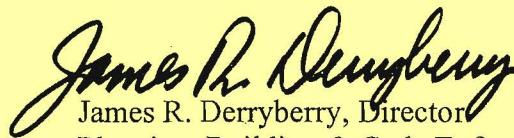
Recommendation #16: *Inform all Multiple Housing Inspectors and Supervisors of established procedures for resolving revoked Residential Occupancy Permit cases and ensure that staff follow-up on revoked Permits in a timely manner.*

The Department concurs with the recommendation. A total of 29 delinquent accounts with balances of \$50.00 or more have been set for permit revocation hearings at the August 26, 1999 meeting of the San Jose Appeals Hearing Board. Draft procedures have been established for Supervisors and Inspectors to follow for subsequent enforcement action to be taken on any permits that are revoked by the Board. Procedures will be transmitted to Supervisors and Inspectors before the August Board meeting. Training will be provided to ensure that Inspectors take timely enforcement action on properties with revoked permits.

Recommendation #17: *Refer long outstanding and outdated Residential Occupancy Permit fee accounts to the Treasury Division for appropriate disposition.*

The Department concurs with the recommendation and has sent the list of outdated fee accounts to the Treasury Division. The Director of Finance has already written off the uncollectable accounts.

The Administration appreciates the work performed by the City Auditor's Office.


James R. Derryberry, Director
Planning, Building & Code Enforcement

db/pr

C: Joan Gallo
Kay Winer

APPENDIX A

DEFINITIONS OF PRIORITY 1, 2, AND 3 AUDIT RECOMMENDATIONS

The City of San Jose's City Administration Manual (CAM) defines the classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class ¹	Description	Implementation Category	Implementation Action ³
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring. ²	Priority	Immediate
2	A potential for incurring significant fiscal or equivalent fiscal or equivalent non-fiscal losses exists. ²	Priority	Within 60 days
3	Operation or administrative process will be improved.	General	60 days to one year

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- ¹ The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number. (CAM 196.4)
 - ² For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of \$25,000 or more to be involved or for a potential loss (including unrealized revenue increases) of \$50,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens. (CAM 196.4)
 - ³ The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration. (CAM 196.4)

APPENDIX B

CITY OF SAN JOSÉ — MEMORANDUM

TO: Gerald Silva

FROM: James R. Derryberry

SUBJECT: MULTIPLE HOUSING INSPECTION
PROGRAM ACCOMPLISHMENTS

DATE: August 13, 1999

APPROVED:

DATE:

This memorandum summarizes the Code Enforcement Division's recent accomplishments for the Multiple Housing Inspection Program. These accomplishments reflect the extensive effort that the Department has invested in improving the service provided by this Program over the past two years. The first five accomplishments were implemented based on recommendations from previous City Auditor's reports.

- **Completed Reconciliation of the Multiple Housing Roster and the City's Sewer Service and Use Database.**

The Auditor's report on the Multiple Housing Roster identified 621 parcels from the City's Sewer Service Data Base which were categorized as residential uses of 3 or more units. Reconciliation was a difficult process because the City's Sewer Service and Use database has only one record for each parcel, includes older mobile home parks and combines residential and commercial uses on the same record. Residential Occupancy Permits are not required for mobile home parks, detached buildings with two or fewer dwellings units on the same parcel or residential and commercial combinations with two or fewer residential units per building. Reconciliation of the records on the Auditor's list required actual site visits to over 500 parcels. Code Enforcement has developed a detailed list of the Sewer Service records that are already on the Roster under different address numbers or that do not require Residential Occupancy Permits. This list will be used for future reconciliation of databases. Reconciliation will be done on an annual basis prior to the annual billing cycle that begins in mid-November.

- **Developed a Definition of Condominiums for the Multiple Housing Program**

The Code Enforcement Division developed a definition of condominium units for the purposes of applying Chapter 17.20 of the SJMC to rental properties in San Jose. This definition was reviewed by the City Attorney and is consistent with previous City Council directives concerning the Multiple Housing Inspection Program.

- **Developed a Procedure for Transmittal of Certificates of Occupancy to Code Enforcement for Newly Constructed Multiple Housing Buildings**

The Department developed and implemented procedures for transmittal of certificates of occupancy for all new apartment projects. Certificates of Occupancy are issued by the Building Division at the completion of all new multi-family buildings and transmitted to the Code Enforcement Division. This system insures that new buildings are included in the Multiple Housing Roster.

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CITY AUDITOR

- **Evaluated Staffing of the Multiple Housing Program**

Staff assignments and funding sources were changed to fully utilize all inspector positions intended for the Multiple Housing Program. One inspector position was changed from the Solid Waste Enforcement Fee fund to the Residential Occupancy Permit Fee fund. Vacant positions in the Multiple Housing Inspection Program were filled and inspectors with collateral duties were relieved of those assignments. An analysis of workload and additional revenue from new permits resulted in a budget proposal to request and additional Residential Occupancy Permit Fee funded and one additional Solid Waste Enforcement Fee funded for the Multiple Housing Program.

- **Developed Procedures for Documenting Inspection Results in the CES System**

New procedures were developed giving guidance to inspectors on documenting inspection results for routine and complaint initiated inspections. The procedures insure that documentation among inspectors is standardized, especially for cases where routine inspections result in no violations of code found. A standard policy on re-inspection fees has been developed and transmitted to staff and a more aggressive approach has been written in to the procedures regarding the scheduling of routine inspections. Inspectors have been given guidance on how to proceed in cases where the property owner does not respond to a request for a routine inspection.

- **Multiple Housing Inspection Program Scope Clarification**

Staff prepared a comprehensive memorandum to clearly outline the scope of the Multiple Housing Inspection Program (MHIP). The memorandum was coordinated with the City Attorney's office and provided consistency and clarity on the scope of the fee supported program and services and standardized the program's policy on reinspection fees.

- **Reorganized the Multiple Housing Inspection Program**

The Division combined the Community Improvement Program (CIP) with the MHIP to allow implementation of a two-tier inspection cycle and annual exterior inspections of priority service units. This was initiated in response to the Mayor's Focus Group Report. As a result, buildings in lower income neighborhoods with more pervasive code violations receive enhanced services, including quarterly exterior blight inspections and additional routine inspections.

- **Completed a Detailed Workload Analysis and Established Performance Targets**

Completed a detailed workload analysis that was used to determine the feasibility of providing a two-tiered inspection program through the integration of the CIP staff. The analysis is used to establish workload targets for each inspector assigned to the Program.

- **Expanded Use of Administrative Citations for Solid Waste Violations**

The Mayor's Focus Group stated that apartment buildings in specific neighborhoods had recurring problems with overflowing garbage dumpsters, trash and illegal dumping. In response, the Division instituted the concept of proactive exterior blight surveys in targeted multiple housing buildings. Warning letters and administrative citations are used to correct these solid waste issues and improve the exterior maintenance of buildings.

- **Implemented a new Code Enforcement Computer System**

Code Enforcement began using the new Code Enforcement Computer System in January, 1999. Extensive system design and programming was required to meet the needs of the MHIP. This system will track all multiple housing inspections and provide improved tracking of case data and workload measurements.

- **Development of a Property Owner/Manager Training Program**

Staff developed and presented a training class for property owners and managers in conjunction with the Tri-County Apartment Association and staff from City Staff from Crime Prevention, Rental Mediation and Project Blossom. Classes are presented to property owners in a specific target neighborhood on proper management techniques, fair housing laws, evictions, tenant screening, gang and drug awareness and prevention. These classes are followed by efforts from Project Blossom staff to organize and maintain an owner's association and tenant association for each neighborhood. These associations are encouraged to work together to on common problems and to sustain physical and management improvements to the neighborhood.

- **Annual Multiple Housing Newsletter**

Staff developed a Multiple Housing newsletter to be included in the annual permit billing. The newsletter promotes the Property Owner Training Program, Crime Prevention services, and the Office of Emergency Service's Residential Seismic Safety Program. It provides updated information on new and pending state and local regulations of interest to property owners.

- **Updated the Multiple Housing Roster**

As a result of the City Auditor's audit of the Multiple Housing Roster, staff has completed an extensive review of potential buildings that could be added to the Roster. An additional 362 buildings (5,411 units) have since been added. Invoices for these additional units were included in the annual billing cycle in November 1998. This will result in \$128,000 in additional revenue for inspection services.

Gerald R. Silva

MULTIPLE HOUSING INSPECTION PROGRAM ACCOMPLISHMENTS

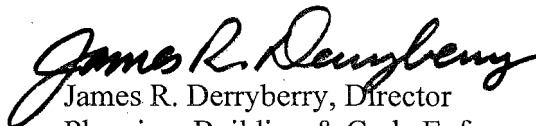
August 13, 1999

Page 4

- **Completed a comprehensive Multiple Housing Inspection Program Report**

The Mayor's Focus Group suggested that staff review a number of suggestions regarding possible strategies for the MHIP. A number of changes to the program were incorporated as a result of this study.

Please contact Dave Bopf at extension 4703 if you have any questions regarding this memorandum.


James R. Derryberry, Director
Planning, Building & Code Enforcement

c: Kay Winer
Dave Bopf
Peggy Rollis