



Office of the City Auditor

**Report to the City Council
City of San José**

**CODE ENFORCEMENT:
IMPROVEMENTS ARE
POSSIBLE, BUT RESOURCES
ARE SIGNIFICANTLY
CONSTRAINED**

**Report 13-11
November 2013**

November 14, 2013

Honorable Mayor and Members
Of the City Council
200 East Santa Clara Street
San José, CA 95113

Code Enforcement: Improvements Are Possible, But Resources Are Significantly Constrained

The Code Enforcement Division of the Planning, Building, and Code Enforcement Department (PBCE) provides citywide enforcement service for all reported concerns and violations relating to neighborhood residential properties as well as commercially and industrially zoned properties. The budget and staffing for this function was significantly impacted by citywide budget cuts. The objective of this audit was to review and assess the efficiency and effectiveness of Code Enforcement operations and consequences of the recent reductions.

Finding 1: Additional Tools May Be Needed to Ensure Timely Resolution of Cases. Code Enforcement's general code section provides the first response to basic neighborhood habitability and building safety issues. Code Enforcement eliminated most of its proactive enforcement programs and since FY 2010-11 no longer responds to some types of routine complaints. In addition, the timeliness of its response to the remaining cases has declined. Code Enforcement frequently visits a property more than one time to ensure that compliance has been achieved, but often does not charge the property owner a re-inspection fee. In our opinion, Code Enforcement should review its options to respond to routine complaints that are currently receiving no response, including hiring more staff when funding becomes available. Further, Code Enforcement should develop criteria for when properties should be vacated, charge for re-inspections per its policy, and consider issuing misdemeanor citations to further ensure compliance.

Finding 2: Efficiencies Are Needed to Improve the Multiple Housing Program. The Multiple Housing Program is a citywide, proactive program to inspect rental multiple housing units. About 41 percent of San José residents are renters; many of them live in buildings with three or more rental units, and are therefore covered under this program. Owners of these buildings are required to obtain a Residential Occupancy Permit. Code Enforcement used to inspect these properties more frequently, but is now on a six-year cycle to complete inspections.

Our review found that the various City departments that oversee these buildings can improve their coordination of information and inspections. We found some duplication in inspections, and that some properties may not have been inspected either by Code Enforcement or the Fire Department. In addition, we recommend Code Enforcement modify the six-year cycle to inspect offending properties more frequently, prioritize the remainder using a risk-based approach, and charge applicable re-inspection fees.

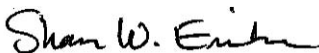
Finding 3: Technology Improvements Are Needed. Code Enforcement staff routinely use at least three databases: one database to track cases and document inspections (CES); a second database to track inspector workload (Access); and a third to research property status and history (AMANDA). We recommend Code Enforcement review options for replacing or enhancing its databases, including options for mobile units and interfacing with other city databases.

Finding 4: CDBG Program Spending. Code Enforcement has been unable to spend \$2.6 million of CDBG funds since 2007-08 due in part to staff vacancies. We recommend Code Enforcement work with the Housing Department to improve the budgeting process, and determine if unexpended CDBG funds can be re-budgeted.

Finding 5: The Abandoned Cart Fee Is Far Below Cost-Recovery. The Abandoned Cart Fee is intended to be 100 percent cost recovery, but only collects about \$30,000 of the \$113,000 current cost of the program. We recommend the Administration review the feasibility of increasing the number of participating companies and/or increasing the annual fee.

We would like to thank the staff in the Code Enforcement Division for their time and insights during the audit process. This report includes 22 recommendations designed to help them improve their operations. It should be noted that while our report does point out potential efficiencies, this program is under significant budget and staffing constraints.

We will present this report at the November 21, 2013 meeting of the Public Safety, Finance, and Strategic Support Committee. The Administration has reviewed this report and its response is shown on the yellow pages.

Respectfully submitted,

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City Auditor

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Table of Contents

| | |
|---|-----------|
| Cover Letter | i |
| Introduction | 1 |
| Background | 1 |
| Audit Objective, Scope, and Methodology | 10 |
| Finding 1 | |
| Additional Tools May Be Needed to Ensure Timely Resolution of Cases | 11 |
| Complaint-Driven Code Enforcement | 11 |
| Code Enforcement Has Lowered Its Targets for Timeliness of Response | 12 |
| Many “Routine” Complaints no Longer Receive an Inspection | 13 |
| General Code Inspector Caseloads Vary | 17 |
| The Timeliness in Closing Cases Has Worsened | 19 |
| Code Enforcement’s Goal Is to Achieve Compliance | 20 |
| Finance Department’s Collection Rate for Administrative Citations Is Low | 24 |
| Problem Properties Can Take up Significant Amount of Staff Time and City Resources | 25 |
| Code Enforcement Should More Aggressively Bill for Re-Inspections | 29 |
| Finding 2 | |
| Efficiencies Are Needed to Improve the Multiple Housing Program | 31 |
| The Multiple Housing Program | 31 |
| Some Properties Were Missing From the Multiple Housing Roster | 35 |
| Buildings Zoned as Condominiums Do Not Fall Under the Purview of the Residential Occupancy Permit Program | 38 |
| Routine Inspections Should Be Conducted More Frequently for Properties With Complaints | 39 |
| Prioritizing Routine Annual Inspections Using a Risk-Based Approach | 41 |
| Tenants Should Be Informed of Deficiencies Found | 44 |
| Multiple Housing Inspector Workloads Vary | 44 |
| Multiple Housing Inspectors Spend Over Half Their Time on Re-Inspections, But Rarely Charge for It | 45 |
| The Multiple Housing Fee Program Has Had Surpluses for Nearly 3 Years | 46 |
| Finding 3 | |
| Technology Improvements Are Needed | 49 |
| Code Enforcement Uses Multiple Databases for Different Programs | 49 |

| | |
|---|---------------------|
| Code Enforcement Needs to Leverage Technology to Improve Response Times | 50 |
| Improvements Are Needed to Make the Web-based Complaint Process More User-Friendly..... | 51 |
| Finding 4 | |
| CDBG Program Spending | 53 |
| Code Enforcement Receives an Annual CDBG Grant | 53 |
| Code Enforcement Has Been Unable to Spend \$2.6 Million of CDBG Funds Since 2007-08 | 53 |
| Some CDBG Inspectors Were Assigned to Work Outside Designated CDBG Areas..... | 54 |
| Independent Post-Surveys Should Be Performed..... | 55 |
| Finding 5 | |
| The Abandoned Cart Fee Is Far Below Cost-Recovery | 57 |
| Abandoned Cart Program | 57 |
| Abandoned Cart Fee Is Far Below Cost-Recovery | 57 |
| Conclusion..... | 59 |
| Administration’s Response..... | yellow pages |

Table of Exhibits

| | |
|---|-----------|
| Exhibit 1: 10-Year History of Code Enforcement Budget and Positions | 5 |
| Exhibit 2: Code Enforcement Source and Use of Funds..... | 6 |
| Exhibit 3: Code Enforcement Interaction With Other City Departments..... | 7 |
| Exhibit 4: Complaint In-Take Process and Citation Issuance | 9 |
| Exhibit 5: Types of Code Enforcement Cases by Percent | 12 |
| Exhibit 6: Timeliness of Code Enforcement Inspections | 12 |
| Exhibit 7: Average Days to Initial Inspection for Routine General Code Cases..... | 13 |
| Exhibit 8: Return Postcard | 15 |
| Exhibit 9: Example of Letter Sent to Responsible Party for Routine Complaints not Requiring an Inspection | 16 |
| Exhibit 10: General Code Inspector Workload by District (FY 2012-13).... | 18 |
| Exhibit 11: Total New Cases Inspected Per Year and Per Week Since FY 2002-03 | 19 |
| Exhibit 12: Percentage of Cases by Time to Closure..... | 20 |
| Exhibit 13: Number of Inspections Per Case (Open Cases as of October 2013) | 21 |
| Exhibit 14: Sample Timeline for Routine Case with Compliance Order..... | 22 |
| Exhibit 15: Picture Taken by Code Enforcement Inspector on 7/19/2013.... | 23 |
| Exhibit 16: Picture Taken by Code Enforcement Inspector on 8/6/2013..... | 24 |
| Exhibit 17: Problem Property with Persistent Blight | 26 |
| Exhibit 18: Average Number of Inspections and Violations Per Case | 29 |
| Exhibit 19: Histogram of San José Housing Stock by Age | 32 |
| Exhibit 20: Histogram of San José Multiple-Family Housing Stock by Age..... | 32 |
| Exhibit 21: Example of a Residential Occupancy Permit Invoice | 34 |
| Exhibit 22: List of Multiple Housing Properties Visited 10 or More Times During FY 2012-13..... | 40 |
| Exhibit 23: Multiple Housing Properties Plotted by Age and Number of Opened Cases Between FY 2007-08 and FY 2012-13..... | 42 |
| Exhibit 24: Multiple Housing Inspectors' Workloads for FY 2012-13 | 45 |
| Exhibit 25: Department of Transportation's Web-based Complaint Form | 52 |

Introduction

In accordance with the City Auditor's Fiscal Year (FY) 2013-14 Audit Work Plan, we have completed an audit of the City of San José's Planning, Building and Code Enforcement (PBCE) Department's Code Enforcement Division.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We limited our work to those areas specified in the Audit Objective, Scope, and Methodology section of this report.

The City Auditor thanks the management and staff of the Code Enforcement Division, Finance Department, San José Fire Department, and the City Attorney's Office for their time and cooperation during this audit.

Background

Code Enforcement is a division of San José's Department of Planning, Building and Code Enforcement (PBCE). Its mission is to,

Enforce and promote compliance with local and State codes to ensure a safe, healthy and attractive community.

According to the department, it

utilizes education and enforcement tools to facilitate compliance with Municipal Codes designed to maintain a healthy, safe and clean environment, carry out land use policy, and preserve the quality of life standards that residents and businesses enjoy in our community.

Code Enforcement's key operational services include community outreach, neighborhood empowerment, general code enforcement and housing code enforcement.

Programs and Divisions

The Code Enforcement Division provides a base-level citywide enforcement service for all reported concerns and violations relating to neighborhood residential properties, as well as commercially and industrially zoned properties.

Currently, Code Enforcement provides two types of services – community code enforcement which includes the Multiple Housing Program, General Code Complaints, and the Community Development Block Grant (CDBG). Other

programs include neighborhood clean-ups, alcohol and tobacco programs, abandoned cart and vehicle program and solid waste landfill inspections. The programs are described below.

General Code Community Enforcement Program: This program is generally a complaint-based program and provides enforcement for neighborhood issues such as, swimming pool fences, illegal construction and conversions, housing-related impact of drug manufacturing (e.g. meth lab condemnations), blight, stagnant water, garbage houses, vacant or unsecured buildings, etc. These complaints are classified as emergency, priority and routine complaints. Complaints can be made over the phone by calling the Code Enforcement number, via email, through a smart phone app or walk-ins. Five in-take staff, including one supervisor, staffs the call center and logs complaints into the Code Enforcement System (CES). The general code program has 15 budgeted code enforcement inspectors,¹ and one supervisor. In general, inspector workload is divided in CES by census tract which then make up the 10 City Council districts.

General code community enforcement staff is funded in part through the General Fund, Solid Waste Enforcement Fee, Vacant and Dangerous Building Fee, and the Vehicle Abatement Fee. Therefore, inspectors respond according to their funding sources. For example, Code Enforcement has determined that an inspector funded through the solid waste enforcement fees can only respond to issues of solid waste. Similarly, an inspector funded through the vacant and dangerous building fee responds to complaints for abandoned or empty buildings and activity in those buildings.

Multiple Housing Program: Code Enforcement provides health and safety code compliance inspection services on all multiple housing properties,² hotels and motels, guest houses, residential care facilities, residential service facilities, emergency residential shelters, and fraternities and sororities in San José. The goal of this program is to ensure that buildings under this program are maintained in safe, decent and sanitary conditions and renters are provided minimum living conditions. In addition, the Fire Department also conducts inspections of some multiple housing facilities on an annual basis. All above facilities are charged a Residential Occupancy Permit (ROP) fee. The ROP funds the Multiple Housing Program as well as Fire Department annual multiple family residential inspections, described in detail later. Code Enforcement has 12 budgeted inspectors and one supervisor assigned to this program.

¹ This includes all the budgeted positions under the citywide general code section of code enforcement.

² As it stands, a multiple housing property is defined as a dwelling that has three or more units; there may be one or more buildings within a multiple housing property.

Code Enforcement's CDBG Project: Code Enforcement is provided an annual allocation through the federal Community Development Block Grant (CDBG). For FY 2012-13 Code Enforcement's allocation was about \$1.3 million from an annual Citywide allocation of \$7.8 million. The Housing Department works with Code Enforcement to develop the program parameters for the CDBG grant. The funds are used to provide proactive inspections in pre-determined, low-income CDBG areas. In 2012-13, three Code Enforcement inspectors worked proactively in the pre-designated CDBG-funded areas.

Other Programs

Code Enforcement also manages compliance with other City programs and ordinances. These include:

- Neighborhood clean-up,
- Off-sale alcohol,
- Abandoned cart, and
- Medical marijuana

The Neighborhood clean-up program provides neighborhoods with clean-up services on a three year cycle. Code Enforcement staff essentially provides bins for residents to drop off household waste including large items.

Off-sale Alcohol (OSA) Permits are required for selling alcohol for consumption off-premises. The business has to meet certain Code conditions, enforced by OSA inspectors. The Tobacco Retail License (TRL) is a similar program for sale of tobacco.

The Abandoned Cart Fee is charged to retail businesses with 26 or more carts. Previously, the City would respond to complaints or visit "hot spots", tag the abandoned carts, and notify the responsible party to retrieve the carts within 24 hours. If the cart had not been retrieved Code Enforcement would return the cart to the business and charge a fee. Code Enforcement funds a position in the Department of Transportation tasked with collecting abandoned carts Citywide. The carts are then returned to the Mabury Yard for pickup by the retail outlets. This service is paid for out of the Solid Waste Enforcement Fee.

The Medical Marijuana Program oversees the regulation and inspection of medical marijuana facilities. One Code Enforcement inspector is assigned to inspection of medical marijuana facilities. These inspections are paid out of the marijuana tax.³

³ Measure U allowed the City to tax marijuana businesses at a rate of up to 10% of their gross receipts, for the privilege of conducting business within the City. The current tax rate is 10%.

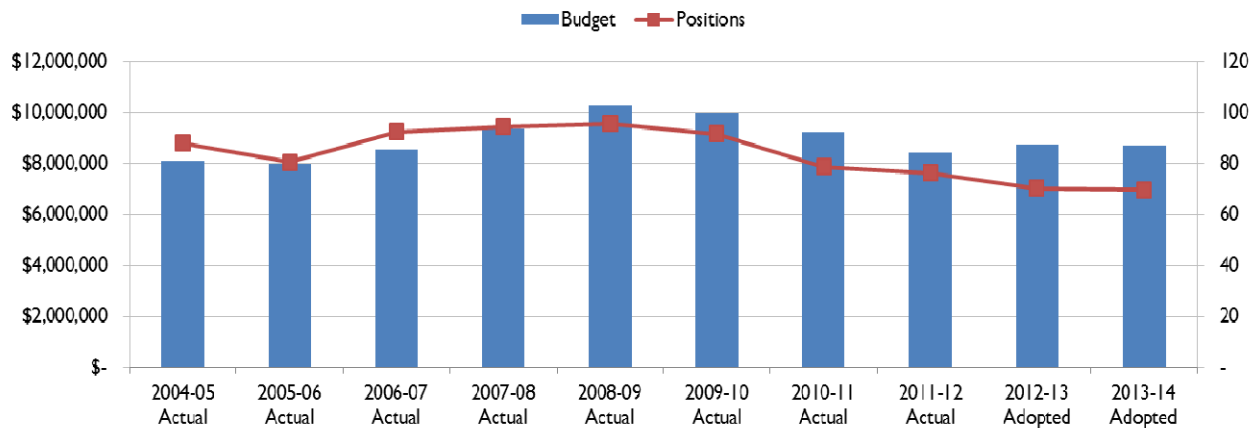
Vacant & Dangerous Buildings (Neglected/Vacant House) VDB – VDB fees support inspection staff for residential and commercial code enforcement. The FY 2012-13 fee was set at \$407 per quarter. This fee supports 2 positions. The fee essentially pays for the monitoring of a vacant building after it has been established that the structure is in fact vacant and/or dangerous. If the building has been vacant for more than 30 days and has violations, the property owner is sent a notice to secure the building within 24 hours. After 31 days, the property is registered as VDB and Code Enforcement charges upfront for 3 quarters worth of fees. In some cases, Code Enforcement may board up the building and charge the responsible party for it. According to staff, most of the existing VDBs' property owners are banks, likely due to the recent spike in foreclosures. Staff also mentioned that, more recently, Code Enforcements has developed better relations with these banks and has identified a point person to work with. This relationship makes it a little easier to remedy the VDB in the event that the responsible party resides in a different state. Code Enforcement estimates that there are about 400 properties that fall under this program.

Solid Waste Local Enforcement Agency – The State of California Public Resources Code designates local jurisdictions as the solid waste local enforcement agencies. Essentially, this provides the jurisdiction with regulatory power over operational and non-operational landfills. It also allows the jurisdiction to collect landfill fees, which are calculated by tonnage. According to Code Enforcement, this fee also allows them to “regulate and abate” solid waste issues throughout the City. Solid waste related issues which require Code Enforcement response within the City are paid for with the Solid Waste Enforcement Fees (SWEF). The regulatory landfill inspections are conducted by Environmental Inspectors in Code Enforcement. In addition, as described above, Code Enforcement funds one Maintenance Worker II position in DOT (about \$113,000) through the SWEF. This position provides support in collecting abandoned shopping carts city-wide. The SWEF covered the initial cost of purchasing the abandoned cart collection truck with lift-gate, which was purchased several years ago.

Budget

Code Enforcement's budget for FY 2013-14 is \$8.7 million. This is a decline from a high of \$10.3 million in 2008-09 but an increase of about \$500,000 since FY 2004-05. It is currently authorized 69.71 positions. Budgeted full-time equivalent (FTE) for Community Code Enforcement declined from 88 to 70 between FY 2004-05 and FY 2013-14. Exhibit I shows a ten year history of Code Enforcement's budget and positions.

Exhibit I: 10-Year History of Code Enforcement Budget and Positions



Source: Auditor summary of Code Enforcement Budget

In FY 2004-05 Code Enforcement was budgeted for 53 Code Enforcement inspectors. In FY 2012-13 it was budgeted for 41 code enforcement inspectors. This is a reduction of nearly 23 percent.

Code Enforcement has been impacted by the dissolution of the Strong Neighborhoods Initiative (SNI) and reduction in funding from the Community Development Block Grant (CDBG) which is a federal program. Many of the activities that were funded through the SNI and CDBG programs were proactive and targeted to certain neighborhoods.

Code Enforcement Programs Are Funded Through Myriad Means

Code Enforcement is funded primarily through various fees and taxes. As described below, these include the Solid Waste Enforcement Fee, the Neglected and Vacant House Fee, Marijuana Business Tax, etc. These are summarized in Exhibit 2.

Exhibit 2: Code Enforcement Source and Use of Funds

| Program | Funding Source | | | | | | | | | |
|---|---------------------------------|--|--------------|--------------------------------|--------------------------|-------------------------------|-----------------------|----------------------------|--------------------------|---------------------------|
| | Residential Occupancy Permit | Community Development Block Grant (CDBG) | General Fund | Solid Waste Enforcement Fee | Vehicle Abatement Fee | Neglected/Vacant House Fee | Abandoned Cart Fee | Off-sale Alcohol Permit | Tobacco Retail Permit | Marijuana Business Tax |
| Multiple Housing | X | | | | | | | | | |
| Proactive Inspections in Selected Areas | | X | | | | | | | | |
| General Code Compliance | | | X | | | | | | | |
| General Code-Solid Waste | | | | X | | | | | | |
| Neighborhood Clean-up | | | | X | | | | | | |
| Abandoned Cart | | | | X | | | X | | | |
| Local Enforcement Agency Inspections | | | | X | | | | | | |
| General Code-Abandoned Vehicles | | | | | X | | | | | |
| General Code-Abandoned Properties | | | | | | X | | | | |
| Off-Sale Alcohol Inspections | | | | | | | X | | | |
| Tobacco Retail License Inspections | | | | | | | | X | | |
| Marijuana Business Inspections | | | | | | | | | | X |

Source: Auditor summary of funding sources

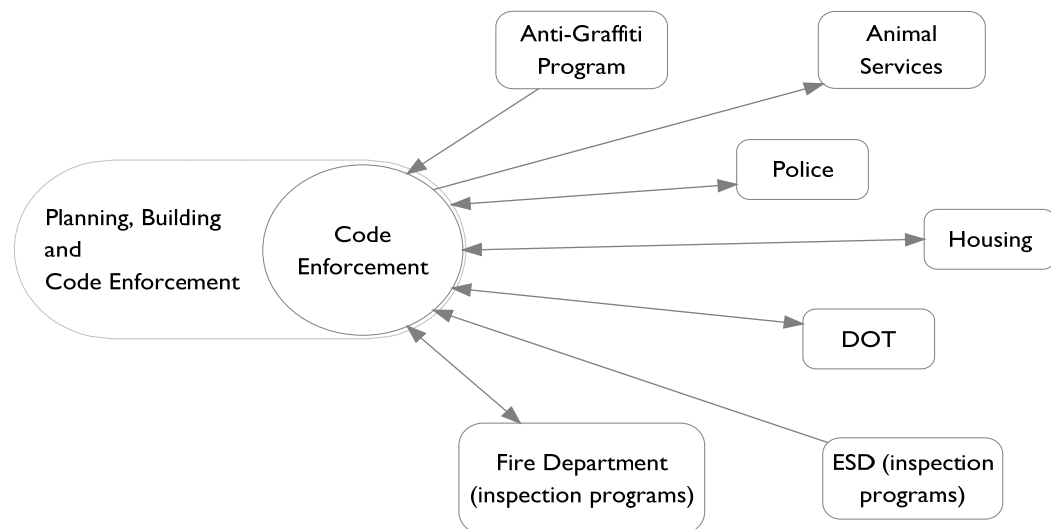
Code Enforcement Works With Various City Departments

Code Enforcement works with other departments within the City to provide code services. For example, Code Enforcement may need assistance from the San José Police Department if there are possible criminal issues. Or it may need assistance from Animal Care and Services if there are animals involved. In many instances, these departments may also refer cases to Code Enforcement for follow-up if they observe violations during their inspections/visits. In other cases, such as with the Fire Department or DOT, a portion of the fee is set aside to fund employees from different departments to provide a related service. These departments are shown in Exhibit 3.

Exhibit 3: Code Enforcement Interaction With Other City Departments

Code Enforcement interaction with other City departments

Code Enforcement receives case information from other City departments and interacts with departments on a case-by-case basis. In some instances the case is simply referred to another department; in other cases, departments coordinate their efforts.



Source: Auditor analysis of workflow and interviews with Code Enforcement staff

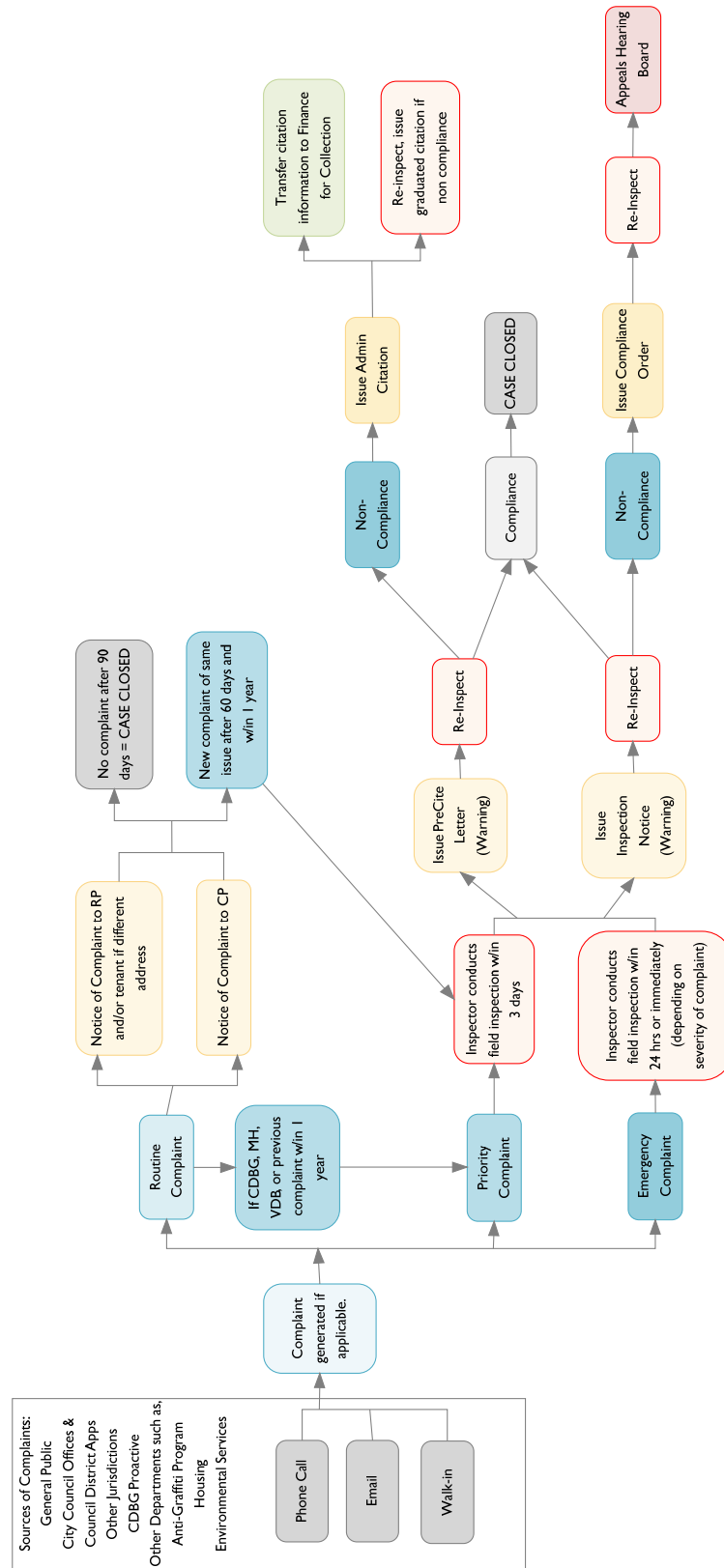
Complaint In-Take Process

Community code enforcement is currently a complaint-based program. Residents rely on code enforcement staff to enforce minimum livability, housing and sanitary conditions within their neighborhoods. In-take staff receives complaints about various issues ranging from minor problems like early set-out of garbage to extremely severe problems such as meth lab contamination and garbage houses. Code Enforcement can inspect the exterior conditions of these properties but needs owner permission to inspect the interior. As mentioned before, complaints can be in the form of a phone-call (most common method), using a

Code Enforcement

smart phone app, email, or walk-ins. Code Enforcement has designated five in-take staff and one supervisor to take these complaints and route them to the appropriate inspectors. In some cases, the in-take staff refers the complaining party to another department. All Code Enforcement complaints are logged into a database called Code Enforcement System (CES). CES is set up to assign cases by 1) type of program and 2) census tract. Inspectors receive an automatic notification when a case has been assigned to them. Exhibit 4 diagrams this process.

Exhibit 4: Complaint In-Take Process and Citation Issuance



Note: Complaining Party (CP), Responsible Party (RP)
 Source: Auditor observation and interviews with Code Enforcement staff.

Audit Objective, Scope, and Methodology

The objective of this audit was to review and assess the efficiency and effectiveness of Code Enforcement operations and consequences of reductions. We reviewed the Multiple Housing Program, General Code, the CDBG program, and the Abandoned Cart program.

We reviewed the completeness of the multiple housing roster and the Fire department inspection program. In order to achieve this audit objective, we did the following:

- Analyzed 10 years of complaint and workload data from the Code Enforcement System (CES);
- Compared and cross-checked the list of multiple housing properties across multiple databases including the Sewer and Use Database, the Multiple Housing Roster, and the FireHouse multiple housing roster, and Housing Department's affordable housing programs;
- Reviewed relevant sections of the San José Municipal Code;
- Reviewed relevant sections of the California State law;
- Analyzed fee estimates for FY 2013-14;
- Reviewed CDBG grant requirements articulated in the Memorandum of Performance for FY 2012-13;
- Interviewed relevant staff on Code Enforcement's processes;
- Interviewed staff from the Fire department to understand the Fire inspection process; and
- Interviewed Code Enforcement staff from the following jurisdictions:
1) City of Santa Cruz, 2) City of Fremont, 3) City of Long Beach and
4) City of Sacramento.

Finding I Additional Tools May Be Needed to Ensure Timely Resolution of Cases

Summary

Code Enforcement's general code section provides the first response to basic neighborhood habitability and safety issues. Because of budget and staffing reductions, Code Enforcement eliminated most of its proactive enforcement programs and since FY 2010-11 no longer responds to some types of routine complaints. In addition, the timeliness of its response to the remaining cases has declined. Code Enforcement frequently visits a property more than one time to ensure that compliance has been achieved, but often does not charge the property owner a re-inspection fee. In our opinion, Code Enforcement should review its options to respond to routine complaints that are currently receiving no response, including hiring more staff when funding becomes available. Further, Code Enforcement should develop criteria for when properties should be vacated, and consider issuing misdemeanor citations and charging for re-inspections to further ensure compliance.

Complaint-Driven Code Enforcement

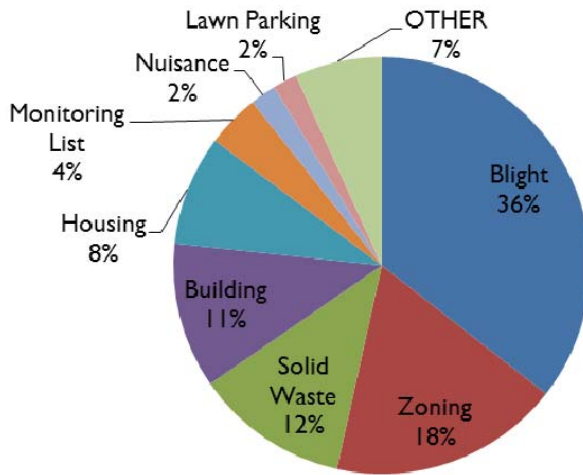
Previously, Code Enforcement had a proactive component. Now, the General Code Enforcement section focuses primarily on reactive responses.

Some of the more common violations to which the General Code Enforcement inspectors respond include:

- blighted and unmaintained properties;
- vacant and unsecured properties;
- building code violations (building, plumbing, electrical, mechanical, etc.), including construction or change of occupancy without permits; and
- visible storage of junk and debris in the front of residential properties.

In FY 2012-13, the complaints falling under General Code classification included 29 different violations logged. The top three code violations were Blight, Zoning, and Solid Waste, comprising 65 percent of all cases logged during FY 2012-13. The percentage of violations is detailed in Exhibit 5.

Exhibit 5: Types of Code Enforcement Cases by Percent



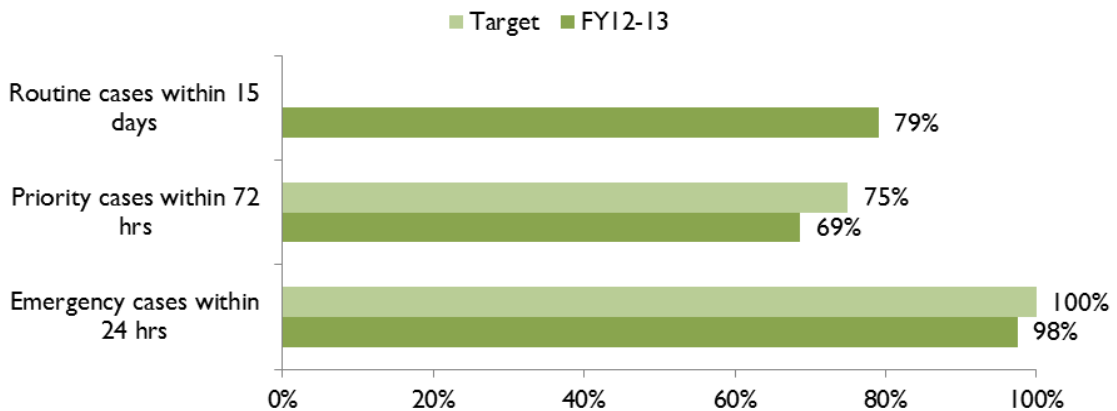
Source: Auditor analysis of CES data

Code Enforcement Has Lowered Its Targets for Timeliness of Response

Code Enforcement’s goal is to respond to 100 percent of emergency cases within 24 hours, and 75 percent of priority cases within 72 hours. Code Enforcement currently does not have a goal for its routine cases.

As shown in Exhibit 6 below, Code Enforcement did not meet its goals in FY 2012-13. It was only able to respond to 98 percent of emergency complaints within 24 hours, and 69 percent of priority complaints within 72 hours. Furthermore, 79 percent of routine cases were inspected within 15 days.

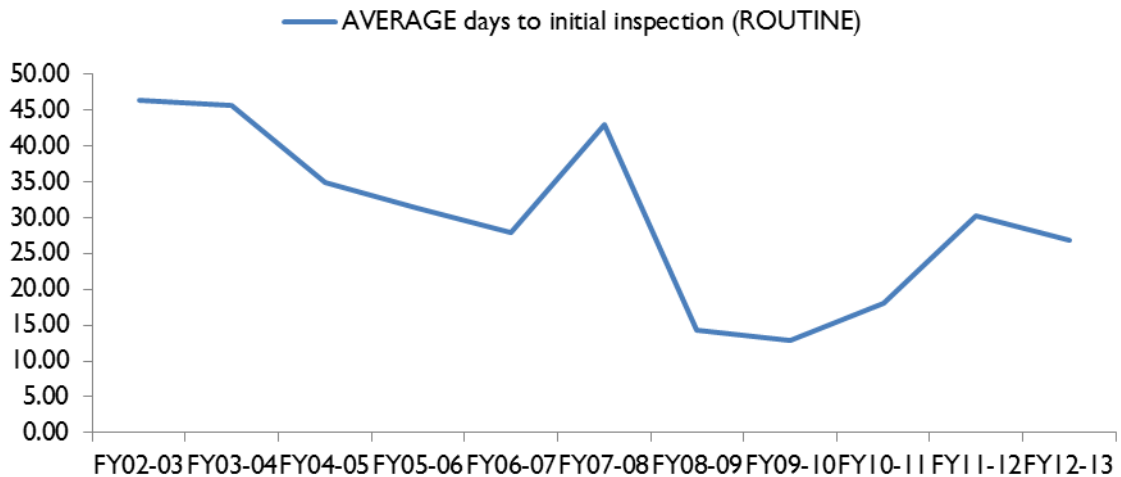
Exhibit 6: Timeliness of Code Enforcement Inspections



Source: Auditor analysis of response times from CES

Exhibit 7 below illustrates the time from the initial complaint to the initial inspection for General Code routine cases. It shows that the average days to initial inspection has varied over the years as Code Enforcement has adjusted its program because of staffing availability. In FY 2012-13, the average time to respond to a complaint has been as low as 13 days and is now just under 27 days.

Exhibit 7: Average Days to Initial Inspection for Routine General Code Cases



Source: Auditor analysis of CES historical data for routine General Code cases that warranted an inspection.

Many “Routine” Complaints no Longer Receive an Inspection

Due to loss of funding in the last decade, in FY 2010-11 Code Enforcement determined that it would not be able to provide an inspection for some types of “routine” cases. Instead, the responsible party is sent a letter informing them of the complaint and giving them some time to fix the problem. Cases that do **not** currently receive an inspection include:

- early set out of garbage/yard waste;
- fence violations;
- graffiti, illegal dumping;
- inadequate landscaping;
- illegal garage sales;
- lawn parking; and
- overgrown weeds.

Under the new model, when Code Enforcement receives a complaint that has been categorized as routine in nature,

- A courtesy/warning letter is mailed to the property owner to advise them that a complaint has been received for their property. Suggestions for correcting the violation will be included.
- In addition, a letter is mailed to the complainant. The letter advises the complainant that a courtesy/warning letter has been mailed to the responsible party/property owner of the subject property. This letter includes a postcard to be mailed back **at the complainant's expense**, if the issue has not been corrected.
- If after 60 days the complainant returns the postcard indicating the condition as alleged has not been corrected, a field inspection may be scheduled if staff resources are available.
- If Code Enforcement does not receive the postcard or information that the violation has not been corrected, then Code Enforcement closes the case in the CES system after 60 days with no further action required.⁴

Complainants Are Asked to Notify the City When the Issue Has Been Resolved or Has Not Changed

The resident is required to respond within 60 days via the postcard shown in Exhibit 8 and notify the City whether the issue has been resolved or has not changed, and provide the case number as shown in the exhibit below:

⁴ Although staff has been closing the routine cases after 60 days, Code Enforcement's procedures state that staff should have been closing those cases out in 90 days. Code Enforcement is in the process of fixing this discrepancy.

Exhibit 8: Return Postcard



City of San José
 Planning Building and Code Enforcement
 Code Enforcement Division
 200 East Santa Clara Street - 3rd Floor
 San Jose, CA 95113-1905

Thank you for partnering with the City of San José Code Enforcement Division to help keep our City clean and safe. This partnership allows us to maximize the effectiveness of our available resources.

After 60 days from the date of the enclosed letter or if the issue reported is resolved more quickly, please:

- 1) Write the assigned Case Number on the space below;
- 2) Check the box for the issue status and;
- 3) Place proper postage and mail.

Case Number: _____

The Issue that I reported has been **resolved**

The Issue that I reported has **not** changed

Other: _____

If you prefer to provide this information by e-mail, please contact us at CodeCaseStatus@sanjoseca.gov **Thank you again!**

Source: Code Enforcement

In FY 2012-13, Code Enforcement reports that it mailed out about 1,600 such letters. It received 470 returned postcards.


Complainants Are Told to Wait Up to 60 Days Even if the Property Owner Was Told 14 Days


As described earlier, if after **60 days** the complainant returns the postcard indicating the condition as alleged has not been corrected, a field inspection **may be scheduled** if staff resources are available. As a result, a complaining resident is expected to provide the postage, track an arbitrary 2-month timeline, and tolerate for an additional 60 days what they may have already thought was an unacceptable situation.

Further, the 60-day timeline does not coincide with the time allocated to the responsible party to resolve the issue. Specifically, the letter that Code Enforcement sends to the responsible party includes a timeline to fix the alleged violation. This is generally 14 days. However the complaining party is asked to

wait for 60 days before notifying Code Enforcement if the problem persists. Exhibit 9 below shows a snapshot of just such a letter to the responsible party.



Exhibit 9: Example of Letter Sent to Responsible Party for Routine Complaints not Requiring an Inspection



CITY OF 
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement

NOTICE OF COMPLAINT

CASE NO: 
SUBJECT: 

The Code Enforcement Division of the City of San Jose has received a complaint alleging a potential violation(s) of the San Jose Municipal Code at the above referenced address or location. This notice is to inform you of the complaint and if the alleged violation is correct we are requesting your voluntary compliance.

The complaint alleges: COUCH ON FRONT YARD.

If the report is correct, you are in violation of the San Jose Municipal Code. You can bring the property into compliance by performing the following corrective action(s) by the due date(s) listed below.

| <u>Municipal Code</u> | <u>Corrective Action</u> | <u>Due Date</u> |
|-----------------------|---|-----------------|
| 17.72.030 | Remove and properly dispose of the accumulation of any debris on the drive way, park strip, front and side yards. | 14 Days |

After the due date(s) above, should a field inspection by Code Enforcement confirm(s) a violation of the code(s) referenced above you may be subject to an administrative fine from \$50.00-\$2,500.00 per day, per violation.

Source: CES

Nonetheless, a follow-up inspection is not routinely scheduled unless the complaining party returns the postcard or complains about the same violation within one year. It should be noted that an inspector funded out of the Vehicle Abatement fee may visit some of these properties to determine if the complaint has been resolved. However this is only done if a property is on the same route as a vehicle related complaint. These types of inspections appear to have occurred only since the beginning of November 2011. And only a small portion of residents receive these follow-up inspections.

As stated before, Code Enforcement's general code services have been affected by a decade of staffing reductions. While Code Enforcement continues to respond to priority and emergency complaints, it has reduced its response to routine complaints.

This type of service reduction can have an impact to the quality of life of City residents and neighborhoods. Code Enforcement is supposed to be the first responder to basic neighborhood health and safety concerns. Code Enforcement has repeatedly emphasized the need to reduce the "broken window" syndrome. This essentially means that smaller problems can be indicative or lead to additional bigger problems.

Other cities we spoke with respond to all complaints. Providing this basic service is important for neighborhood viability. In our opinion, when funding becomes available Code Enforcement should consider adding more staff to respond to more complaints sooner.

Recommendation #1: To improve timeliness and responsiveness to routine complaints, the General Code Enforcement section should (as funding and staffing allows) provide more inspections for routine complaints. If it continues to send out postcards to complainants, it should match the return date on the postcard to the due date on the notice of complaint, and/or (as funding and staffing allows) follow-up by phone with complaining parties before closing cases.

General Code Inspector Caseloads Vary

As described earlier, the number of budgeted Code Enforcement inspectors has declined by nearly 23 percent over the last decade. The General Code program currently has 15 budgeted Code enforcement inspectors⁵ and one supervisor.

Code Enforcement currently assigns workload census tracts within City Council Districts. Inspector workload varies as a result because some Council Districts receive more complaints than others. As Exhibit 10 shows, some inspectors handled over 400 new cases for FY 2012-13 whereas some others handled fewer than 100 new cases. The chart below shows the inspector breakdown by District.

⁵ This includes three General Code enforcement inspectors and 12 inspectors that respond to complaints such as vehicles, blight and solid waste, vacant and dangerous buildings and illegal constructions.

**Exhibit 10: General Code Inspector Workload by District
(FY 2012-13)**

| District | Inspectors | New Cases Opened |
|----------|---------------|------------------|
| D1 | Inspector #1 | 292 |
| D2 | Inspector #2 | 184 |
| D3 | Inspector #3 | 453 |
| D4 | Inspector #4 | 349 |
| D5 | Inspector #5 | 301 |
| D6 | Inspector #6 | 249 |
| D7 | Inspector #7 | 229 |
| D8 | Inspector #8 | 236 |
| D5, 8 | Inspector #9 | 68 |
| D9 | Inspector #10 | 59 |
| D10 | Inspector #11 | 300 |

Source: Auditor analysis of CES

According to Code Enforcement, newer staff is still being trained and inspectors with lower workloads occasionally work in multiple districts.

The Number of New Cases Opened Has Declined⁶

We found that the number of new cases assigned declined over the past ten years. As mentioned before, Code Enforcement assigns cases by census tract. For FY 2012-13, about 4,400 new cases were assigned to inspectors⁷ equating to about 80 new cases per week. For comparison, in FY 2002-03 about 9,700 new cases were assigned, or about 180 new cases per week. We should note that this number represents new cases assigned during the year, and does not include ongoing cases or re-inspections.

Even though much of this reduction came because Code Enforcement stopped responding to many routine cases since FY 2010-11, our analysis showed that weekly case levels have been consistently declining since FY 2002-03 with the lowest year being FY 2012-13. The exhibit below shows the total number of cases per year and per week for the last decade.

⁶ Code Enforcement uses a workload tracking system called the Dashboard to keep track of their inspector workload and other performance metrics. We found that Code Enforcement had incorrect data in Dashboard. Specifically we found that the actual workload for general code inspectors in FY 2012-13 was 4,600 opened cases. However, the Dashboard showed 7,700 opened - a difference of nearly 3,000 cases. Code Enforcement staff uses this information to track and monitor inspector workload therefore having the correct information in the Dashboard is absolutely crucial. Further, Code Enforcement also reports this information in their budget performance targets. Code Enforcement reports that it is in the process of fixing this problem.

⁷ The total number of General Code cases is closer to 5,900 for FY 2012-13, however this total includes unassigned cases which did not receive an inspection.

**Exhibit I I: Total New Cases Inspected Per Year and Per Week
Since FY 2002-03**

| Fiscal Year | Total New Cases/Year⁸ | Total New Cases/Week |
|--------------------|---|-----------------------------|
| 2002-03 | 9,765 | 188 |
| 2003-04 | 9,298 | 179 |
| 2004-05 | 8,593 | 165 |
| 2005-06 | 8,380 | 161 |
| 2006-07 | 8,883 | 171 |
| 2007-08 | 9,368 | 180 |
| 2008-09 | 9,353 | 180 |
| 2009-10 | 9,314 | 179 |
| 2010-11 | 8,305 | 160 |
| 2011-12 | 5,850 | 113 |
| 2012-13 | 4,483 | 86 |

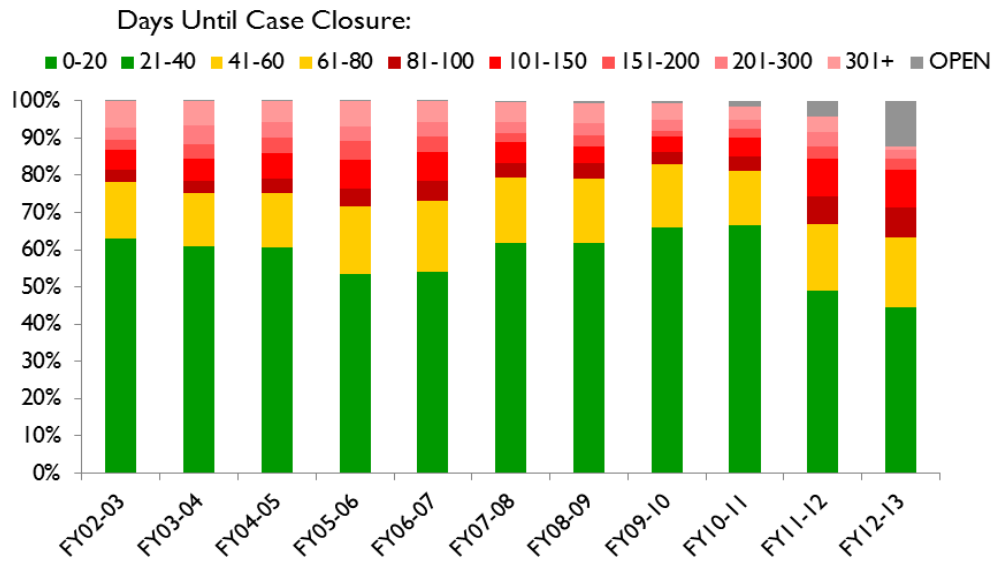
Source: Auditor analysis of CES data.

The Timeliness in Closing Cases Has Worsened

Even though the number of cases opened and inspected has declined, the time that it takes to close cases has increased. Specifically, in FY 2002-03, Code Enforcement closed 63 percent of General Code cases within the first 40 days. In FY 2012-13, it only closed 45 percent within the first 40 days. Further, Code Enforcement previously closed 78 percent of these cases within the first 80 days. Ten years later this has declined to 63 percent cases closed within the first 80 days. Exhibit 12 below illustrates the recent decline in timeliness in bringing cases to closure.

⁸ Excludes unassigned cases that did not receive an inspection.

Exhibit 12: Percentage of Cases by Time to Closure⁹



Source: CES, Auditor analysis of each case's days open calculated by subtracting the closure date from the open date on record.

Note: more recent years have a greater number of cases still open, illustrated by the grey bar in each annual column.

Code Enforcement's Goal Is to Achieve Compliance

One reason why some of the Code Enforcement cases may be staying open longer is that Code Enforcement has adopted a softer approach to resolving violations. Many of the open cases involve illegal constructions and building violations which can take a long time to resolve. Since 2002, the percentage of cases open for more than one year has hovered around 4 percent each year.

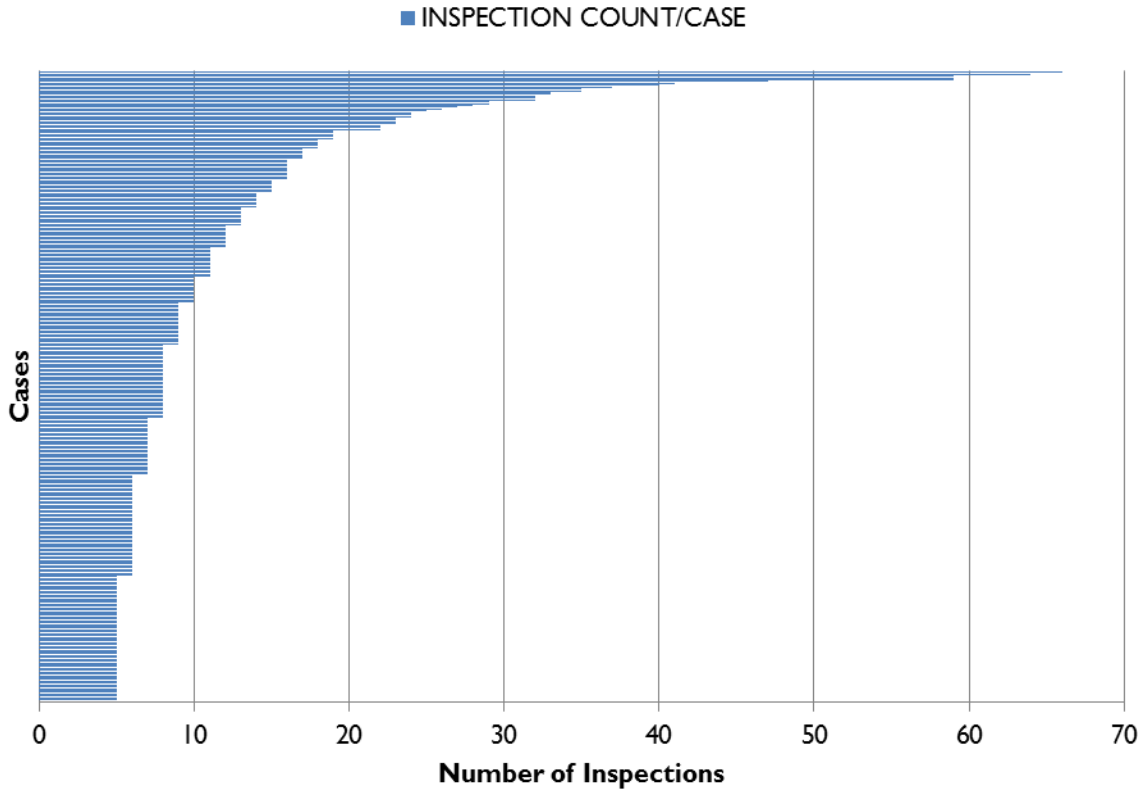
By comparison, in FY 2012-13 there were over 700 cases still open after one year. In other words, nearly 12 percent of cases opened in FY 2012-13 continue to remain open. Having cases open means that at some point in the future, an inspector will have to follow-up on that case and attempt to make contact with the property owner to determine if there has been a resolution. This continued follow-up may negatively impact inspector response times if the re-inspections take priority over getting to new cases.

Exhibit 13 shows the total number of inspections per case for open cases as of October 2013 that had 5 or more inspections. This includes five very old, unresolved cases dating back to FY 2002-03. There are several cases with greater than 40 inspections, the oldest of which dates back to July 2006. The case with

⁹ For those cases that have since been closed, we calculated the days to closure by subtracting the open date from the closed date to achieve a total timespan for the days the case remained open. The cases that remain open to date were excluded from this analysis.

the most number of inspections was opened in February 2008 and has been visited a total of 66 times since then. This particular case has accumulated 8 violations pertaining to vacant and dangerous building conditions.

Exhibit 13: Number of Inspections Per Case (Open Cases as of October 2013)



Source: Auditor analysis of CES data

How Long Is Too Long?

Under current Code Enforcement procedures, the expected timeline for a General Code case requiring a Compliance Order (CO) is about **80 days**, not including re-inspections or the appeals hearing board. The timeline shown in Exhibit 14 does not include any discretion an inspector may use to grant more time to comply.

Exhibit 14: Sample Timeline for Routine Case with Compliance Order

| Step | Process | Allowable Time (in working days) |
|-------------|--|--|
| 1 | Receive complaint | n/a |
| 2 | Enter complaint into CES | Within 24 hours |
| 3 | Make contact with Complaining Party (CP) to clarify and determine response | Within 3 days |
| 4 | Conduct site inspection | Within 15 days |
| 5 | If violation exists, issue pre-cite warning letter with time to correct violation | Variable, typically 30 days maximum |
| 6 | Return to inspect on the due date provided | At 30 days (or whatever was described in the letter) |
| 7 | If violation persists, issue compliance order with time to correct violation | 20 days from issuance |
| 8 | Re-inspection of property | At 25 days from issuance of CO |
| 9 | If violations persist, charge for re-inspection fee and schedule re-inspection | 72 hours after re-inspection |
| 10 | May repeat re-inspection up to three times, and charge a re-inspection fee for each. | Variable |
| 11 | If compliance has not been achieved by third re-inspection, inspectors should prepare the case for Appeals Hearing Board (AHB) | Variable |

Source: Auditor analysis and summary of Code Enforcement procedures

Building violations cases frequently take longer than 80 days. Some of the oldest open cases from 2002 are building violation cases. Code Enforcement has designated one inspector to assist in these cases and coordinate with the Building Division.

In a recent instance, Code Enforcement received a complaint regarding an illegal garage conversion on June 26, 2013. Even though the inspector attempted to schedule an inspection 5 days later, because of scheduling issues, the initial inspection was not completed until July 16, 2013, or 3 weeks later. The illegal garage conversion was confirmed by the inspector at this inspection. A notice of inspection was sent to the responsible property on July 29, 2013, five days after the inspection. The letter gave the owner an additional twenty days to resolve one of the problems. Building plans were finally submitted on October 18, 2013 – 16 weeks after the complaint was received. Construction will, of course, take longer.

Further, the notice of inspection for the above property made no mention of any requirement to remove the tenants that were occupying the illegal structure, even though Code Enforcement guidelines require that it give notice instructing the tenants to vacate the premises within 45 days if there is no immediate danger or 6 months if the occupancy can be made legal with building permits. This applies to all illegal occupancies.

In contrast, the City of Long Beach immediately issues a \$1,000 citation at the first visit for illegal construction because of the danger to its residents. An immediate “order to vacate” is also issued and enforced. According to Long Beach, previous deaths in illegal structures have caused the City to enforce a very low tolerance for these types of units.

What About When There Are Multiple Complaints?

In another instance, a complaint was received on June 5, 2013 regarding front yard blight. A routine letter was sent out even though there had been two prior complaints on the same issue in the previous year.¹⁰ On June 11, 2013, a supervisor assigned the case to an inspector. The inspector performed an initial inspection at the property on June 26, 2013, and returned twice more to check on the progress. The case was finally closed on September 16, 2013 after supervisory review -- nearly three months after the third complaint, and nearly 14 months after the first complaint regarding the same issue. We should note that Code Enforcement has been receiving complaints about this property on similar issues since 1999.

How Many Inspections?

In a third case, there was a complaint made on July 1, 2013 regarding garage sales being done on a daily basis for over a year. Code Enforcement sent out a letter informing the responsible party of the complaint and letting them know the City ordinance regarding the same. On July 15, 2013 (two weeks later) the Police Department referred a case about the same property to Code Enforcement. The Police Department was concerned about the existence of mosquitos in the stagnant pool water. See picture below.

Exhibit 15: Picture Taken by Code Enforcement Inspector on 7/19/2013



Source: CES

¹⁰ Code Enforcement’s policy requires that a routine no-inspection case be assigned to an inspector if a second complaint is made within one year.

A Code Enforcement inspector inspected the property on July 19, 2013 and provided a week to comply. No formal compliance notice was sent out. The inspector conducted a second inspection on August 6, 2013. The inspector observed that the pool was “less green” compared to the previous visit and gave the property owner until August 9, 2013 to clean it up. See below for state of the pool during the August 6, 2013 visit.

Exhibit 16: Picture Taken by Code Enforcement Inspector on 8/6/2013



Source: CES

When the inspector attempted the third inspection on August 16, 2013 no one was home. During this time a different neighbor complained about noise and possible illegal activity at the residence. As of October 22, 2013, this complaint is still open -- nearly 3 months after the initial complaint. No re-inspection fees have been charged and presumably the problem still exists.

Given that the current mode of operation is to allow for property owners to prolong the case closure process, which costs the City time and resources, and does not appear to effectively encourage compliance, we recommend that:

Recommendation #2: To ensure timely resolution of violations, General Code Enforcement should review and establish maximum timeframes for compliance and provide training to its inspectors to ensure adherence to those timelines.

Finance Department’s Collection Rate for Administrative Citations Is Low

Code Enforcement’s main enforcement tool is the administrative citation process – and the associated fine. However, the citation and fine lose their impact if collection efforts aren’t swift and complete.

Once Code Enforcement inspectors issue the citation, the Finance department is charged with collecting the money. Code Enforcement has no further

information as to the status of the administrative citation and may issue other citations for that same property even if the citation has not been paid or is possibly uncollectible. Finance sends out three reminders before beginning its internal effort to collect. Finance can take individuals to small claims court if they deem that sufficient assets exist to recover the amount. If not, Finance has contracted with a collection agency to attempt to collect the amounts. Finance starts the collection process 90 days after the first letter was issued.

Since FY 2008-09, Code Enforcement issued \$2.7 million in administrative citations. Together with \$359,000 in penalties and interest, a total of \$3 million was due. Only \$1.3 million or 40 percent of that amount was collected over the course of five years. In fact, over 600 of the 950 administrative citations remain uncollected for FY 2008-09.

Recommendation #3: The Finance Department should provide a quarterly collection report to Code Enforcement and work together with Code Enforcement to determine citation collection prioritization.

Problem Properties Can Take up Significant Amount of Staff Time and City Resources

Even though most Code Enforcement complaints are resolved with minimal intervention, problem properties with a multitude of problems can take up a significant amount of Code Enforcement staff time and cause anguish to the neighborhood. These cases frequently span multiple departments such as the Police Department, Animal Care, and the City Attorney's Office. While the administrative citation and remedy process may work for most cases, Code Enforcement does not have aggressive enforcement tools for these problem properties. As it stands currently, severe violations follow the same administrative process of escalating action as relatively minor violations.

Current Process Is Time-Consuming

After the initial inspection, Code Enforcement inspectors issue a notice of inspection in order to provide the offending party an opportunity to comply or appeal the inspection order. The inspector then goes back to re-inspect the property to see if the violation has been resolved. If it has not, the inspector issues an administrative citation (generally for those types of violations that are discreet in nature) or a compliance order (for violations not transitory or discreet). Administrative citations can range from \$250 to \$2,500. The administrative citation provides the responsible party another opportunity to fix the violation or appeal it. This process can go on and on while next-door neighbors continue to endure these blighted properties. As discussed above, inspectors may conduct multiple re-inspections to ensure problems are resolved.

In the worst of cases, Code Enforcement can opt to clean up a property themselves (abatement) and seek reimbursement from the responsible party. For this however, Code Enforcement has to get the approval of the Appeals Hearing Board. The Appeals Hearing Board is a quasi-judicial body that hears code enforcement appeals of blighted conditions, illegal building activity, unsafe and unsanitary living conditions, abandoned, dismantled and inoperative vehicles on private property, neglected vacant houses, weed abatement liens and garbage liens. Once the Appeals Hearing Board approves the abatement order, Code Enforcement can force clean-up.

Extreme Cases

Going through this process can take a long time. While a “softer” approach appears to work when dealing with most properties, extreme problem properties require stronger enforcement action. For example, one such problem property that has had an ongoing issues dating back to 1999, most recently had a new case opened in May 2013 and was finally closed out in October 2013 – five months later -- after a summary abatement order was issued by the Appeals Hearing Board. Exhibit 17 documents some of the deplorable conditions the inspector observed at the initial inspection in May 2013 and previous issues of blight. This particular property has had a history of blight issues for over a decade and has finally culminated in this extreme condition.

Exhibit 17: Problem Property with Persistent Blight

Front Yard in 2010



Blight observed in 2013



Source: CES

Code Enforcement Process to Condemn Properties Is Insufficient

In general, Code Enforcement condemns a property when the property has no water supply.¹¹ A condemnation essentially means that the property is so dangerous that the City deems that its residents cannot be allowed back into the property while the unsafe conditions persist. However, once the violation is corrected, the condemnation is removed and residents are allowed back in the house even though other severe violations may exist.

By contrast, the City of Fremont uses an aggressive approach to condemning properties. They follow the definition of substandard housing which is in the California State Health and Safety Code Section. In order to condemn a property, they need to find sub-standard housing conditions such as hoarding, mold, leaky roofs, major plumbing problems, meth labs, rotting structures, endangerment to the public, etc. The Code Enforcement officer has substantial discretion to determine the extent of the substandard conditions.

¹¹ Other reasons to condemn a property may be structural integrity, meth lab contamination, dangerous accumulation of putrescible material, raw sewage leaks and lack of heat during winter.

The City of Long Beach also takes a much more aggressive approach for illegal constructions. Long Beach distinguishes between a condemnation and an “order to vacate”. While condemnation is only done by the Fire Department, the Long Beach Code Enforcement department issues “order to vacate”. An order to vacate can be issued under the guidelines of the Long Beach Municipal Code.¹²

Recommendation #4: Code Enforcement should develop criteria for when it should require properties be vacated and provide training to staff on these criteria.

Code Enforcement Could Issue Misdemeanor Citations for Extreme Cases

One option for extreme cases could be issuance of a misdemeanor citation. Code Enforcement reports that in the past inspectors had the authority to issue criminal citations that generally allowed inspectors to pull in more resources than an administrative citation would.¹³ For example, these resources often included mental health assistance and the police department. The difference between an administrative citation and a criminal citation is that administrative citations are civil in nature (usually involving a fine) and appeals are heard before a City Hearing Officer. Misdemeanor citations are heard in Superior Court before a judge and are criminal in nature.

The misdemeanor citations should only be used in rare instances where an administrative citation is not enough to fix the problem. In these extreme cases, it would both time-saving and beneficial to take the person directly to Court to resolve a serious condition such as a “slumlord” victimizing tenants (substandard housing) or where it would be appropriate for a person (such as a hoarder) who has mental health issues to be ordered treatment or in some cases conservatorship.

California State Law (Penal Code Section 836.5) requires that cities (and Agencies) that empower employees to issue misdemeanor citations be required to have adopted an Ordinance. It appears that a simple change to the Municipal Code would provide Code Enforcement inspectors tools to do more aggressive enforcement.

¹² According to section 18.20.040 of the Long Beach Municipal Code, if, after thirty (30) days from service of the notice requiring remedial work [to the substandard building], [...], such work is not commenced, or within ninety (90) days of such notice, such work is not completed, the Building Official may order the building vacated [...]. If the building is unoccupied, the order to vacate may be immediate. If the building is occupied, a notice of intent to order the building vacated shall be given thirty (30) days prior to issuing such order. The Long Beach Municipal Code incorporates the California State Health and Safety Code.

¹³ Code Enforcement Officers were designated as Peace Officers (Public Officers) by the City Manager routinely until the San José Municipal Code was changed in 1993.

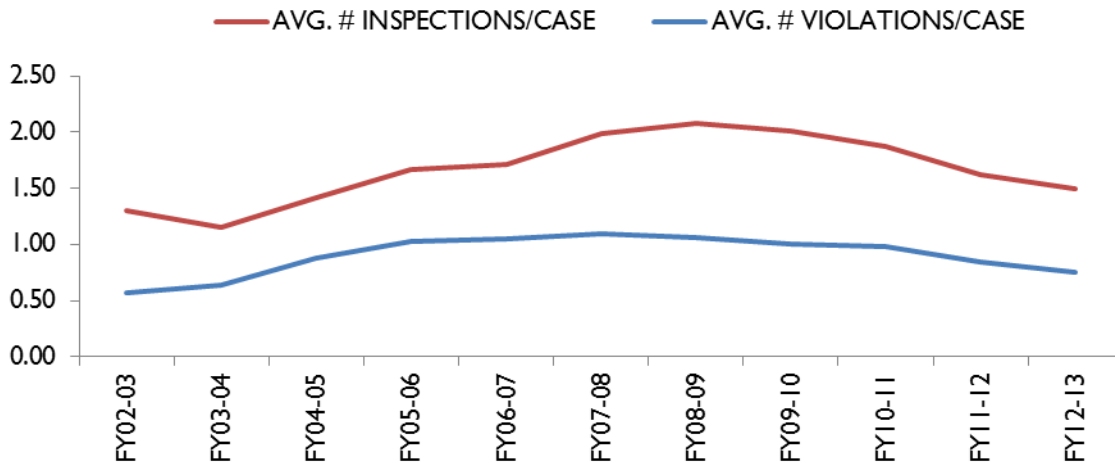
Recommendation #5: To increase the enforcement authority of Code Enforcement inspectors, we recommend the City Council amend the Municipal Code to allow Code Enforcement inspectors to issue misdemeanor citations. The Municipal Code and Code Enforcement policies and procedures should define under what circumstances misdemeanor citations can be issued and by whom.

Code Enforcement Should More Aggressively Bill for Re-Inspections

As shown in Exhibit 18, the number of inspections per case has been creeping upward since FY 2002-03, from 1.3 to a high of 2.1 inspections per case in FY 2008-09. More recently the average has come down, but still remains higher than a decade ago. As inspections increase, it may be indicative of an unwillingness to issue citations early on in the process.

Although the average number of violations per case is down from a high of 1.1 in FY 2007-08, the number is higher than a decade ago, from 0.6 in FY 2002-03 to 0.8 violations per case most recently. It should be noted that these averages include general code cases that were not assigned and did not receive any inspection.

Exhibit 18: Average Number of Inspections and Violations Per Case



Source: Auditor analysis of CES data.

Re-inspection Fees

The General Code re-inspection fee is levied to cover the cost of re-inspections of single-family residential and business properties to determine compliance with the Zoning Ordinance, Community Preservation Ordinance, Housing Code and various other Municipal Codes. This **mandatory** fee is charged for the third and subsequent inspections, if the owner has not brought the property into compliance.

The re-inspection fee has been in place since FY 2009-10. For FY 2012-13, the re-inspection fee was \$175. Under the current Code Enforcement process, the first two inspections are free. The first inspection is to determine whether a violation is present. If a violation is present, the City gives notice of the violation and schedules a second inspection. Thus, as currently interpreted, the City does not charge for re-inspections until after the City has determined there is a violation (inspection #1), given notice and determined that the violation has not been corrected (inspection #2), and had to re-inspect the property at least one more time (inspection #3). Any subsequent inspections after the third would also be subject to a re-inspection fee.

Code Enforcement reports that it began charging some re-inspection fees in early 2012. In FY 2011-12 and FY 2012-13 Code Enforcement billed less than \$6,000 for re-inspections. Returning multiple times for an inspection not only costs the City time, but also hinders Code Enforcement's response to new complaints and draws out the ordeal for surrounding neighbors enduring the blighted condition. Furthermore, the current process does not define when an inspector can waive the re-inspection fee.

In FY 2012-13, Code Enforcement conducted over 3,000 re-inspections (that is, third inspections and subsequent inspections). If each of these were charged the fee then Code Enforcement would collect over \$550,000 in re-inspection fees. However, Code Enforcement inspectors also have the discretion to determine that progress is being made to fix a violation and therefore not charge the re-inspection fee.

The City of Sacramento in contrast, can fine the violator a minimum fee if the violation has not been fixed by the provided compliance date. Sacramento also specifies that this fee may be waived only if more than 80 percent of the violation has been fixed.

Defining this kind of substantial compliance to waive this fee is important. Every time an inspector has to go back to a property to determine progress, it simply means that the resident that complained hasn't had their complaint resolved and that residents have to continue living near those conditions. Re-inspections can be a substantial portion of inspector workload and only means that they cannot quickly get to the other complaints in a timely manner.

Recommendation #6: Code Enforcement should:

- a) **Collect fees for all re-inspections,**
- b) **Develop criteria for exceptions, if any, and**
- c) **Train its staff on assessing these fees.**

Finding 2 Efficiencies Are Needed to Improve the Multiple Housing Program

Summary

The Multiple Housing Program is a citywide, proactive program to inspect rental multiple housing units. About 41 percent of San José residents are renters; many of them live in buildings with three or more rental units, and are therefore covered under this program. Owners of these buildings are required to obtain a Residential Occupancy Permit. Code Enforcement used to inspect these properties more frequently, but is now on a six-year cycle to complete inspections.

Our review found that the various City departments that oversee these buildings can improve their coordination of information and inspections. We found some properties may not have been ever inspected either by Code Enforcement or the Fire Department. In addition, we recommend Code Enforcement modify the six-year cycle to inspect offending properties more frequently, prioritize the remainder using a risk-based approach, and charge applicable re-inspection fees.

The Multiple Housing Program

Code Enforcement Division proactively inspects all multiple housing buildings for compliance with the City's Housing Code. One of the goals of this program is to provide oversight over those buildings that are not owner-occupied.

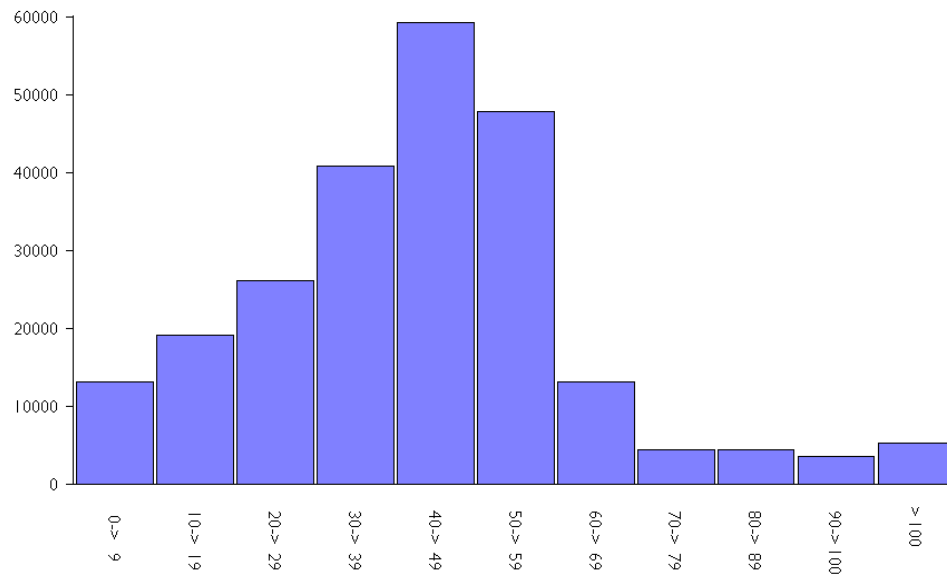
San José's Housing Stock

According to the 2010 U.S. Census, about 550,000 San José residents live in approximately 176,000 owner-occupied housing units, comprising 59.3 percent of the population. By comparison, about 41 percent of San José residents are renters, and the approximate number of renter-occupied housing units is 125,000. The average household size is slightly above 3 persons for both rentals and owner-occupied.

As of 2010, the total number of vacant housing units was nearly 13,000, of which about 2,400 are vacant but not on the market for rent or sale.

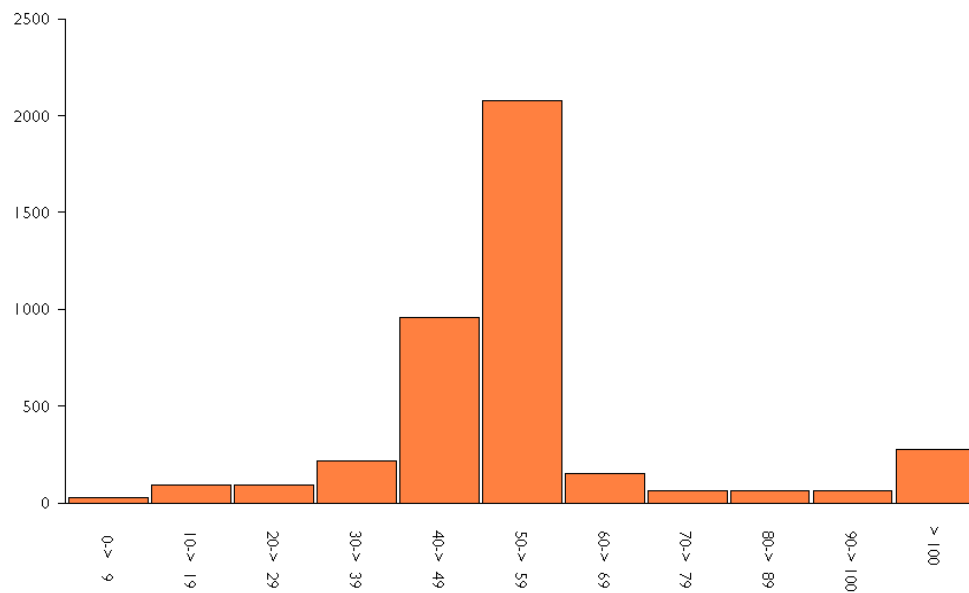
The age distribution of San José's housing stock differs between multiple-housing compared to the entire city-wide housing makeup. The graphs following illustrate the two populations. As shown in the second graphic below (Exhibit 20), the vast number of San José's multiple-family buildings are now 40-60 years old.

Exhibit 19: Histogram of San José Housing Stock by Age



Source: Auditor analysis of CES data.

Exhibit 20: Histogram of San José Multiple-Family Housing Stock by Age



Source: Auditor analysis of CES data.

The Residential Occupancy Permit/Inspection Program

Code Enforcement Division issues a Residential Occupancy Permit (ROP) for all multiple housing apartment buildings that have three units or more and for hotels and motels, guest houses, residential care facilities, residential service facilities, emergency residential shelters, and fraternities and sororities.

The current ROP fee is \$43.81 per unit for all multiple housing units. \$8.78 of that fee provides funding for the annual Fire inspection program. While Code Enforcement tracks its inventory in their Multiple Housing Roster database, the Fire Department separately maintains inventory and inspection records in its Firehouse software. These two systems are maintained completely independently, and have not been cross-referenced for accuracy or validity. The ROP invoice also includes a Rental Mediation Fee of \$7.50 per unit¹⁴ for all multiple housing units greater than 3 units that were built prior to 1979, or an eviction notice fee of \$1 per unit for the remaining multiple housing buildings.¹⁵

Code Enforcement conducts Multiple Housing inspections on a 6-year cycle. In addition, Multiple Housing inspectors respond to complaints at the above buildings. The annual Residential Occupancy Permit pays for the Multiple Housing Program.

Code Enforcement's goal is to inspect the full inventory of properties on a 6-year cycle. Workload cycles are tracked using an internal Access database (multiple housing roster). Currently, the multiple housing roster has about 4,400 properties, consisting of 6,600 buildings or 85,000 units. Multiple Housing inspector workloads are divided by census tract. Each Multiple Housing inspector conducts routine inspections and responds to complaints about Multiple Housing properties in their assigned census tract.


Residential Occupancy Permits

Code Enforcement sends out the ROP invoice in November of a given year with payment due on December 31. In addition to the Residential Occupancy Permit, property owners are also invoiced for the rental mediation fee or the eviction notice fee. Exhibit 21 shows an example of a ROP invoice.

¹⁴ The Mediation fee increased from \$6.50 in FY 2012-13 to \$7.50 in FY 2013-14.

¹⁵ The San José Rent Control Ordinance allows property owners an opportunity to request an annual fee exemption for the following reasons: 1) the property owner occupies one of the units; 2) the rental unit is used for transient accommodations (for periods of less than 30 days) such as a hotel or guest house; 3) the rental unit is owned or operated by a governmental agency; 4) the rent is subsidized by a governmental agency; OR 5) the property is a hospital; convent; monastery; extended care facility; emergency residential shelter; residential care facility; residential service facility; asylum; nonprofit home for the aged; fraternity or sorority house; a dormitory owned and operated by an institution of higher education, high school, or elementary school.

Exhibit 21: Example of a Residential Occupancy Permit Invoice

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|  <p>CITY OF SAN JOSE CAPITAL OF SILICON VALLEY</p> | <p>City of San Jose Department of Planning Building & Code Enforcement 200 E. Santa Clara Street San Jose CA 95113 (408) 535-7770</p> | <table border="1"> <tr> <td style="text-align: center;">RESIDENTIAL OCCUPANCY PERMIT</td> </tr> <tr> <td style="text-align: center;">RENEWAL NOTICE</td> </tr> <tr> <td style="text-align: center;">KEEP THIS PORTION FOR YOUR RECORDS</td> </tr> </table> | | | RESIDENTIAL OCCUPANCY PERMIT | RENEWAL NOTICE | KEEP THIS PORTION FOR YOUR RECORDS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | RESIDENTIAL OCCUPANCY PERMIT | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RENEWAL NOTICE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| KEEP THIS PORTION FOR YOUR RECORDS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Permit No: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p> </p> | <p>FOR THE YEAR 2013 PAYMENT DUE BY: 12/01/2012 PENALTY AFTER: 12/31/2012</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p style="text-align: center;">Penalties will be charged on payments postmarked after 12/31/2012. City Offices will close from December 22, 2012 to January 1, 2013 for the holidays.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td>PRIOR BALANCE</td> <td style="text-align: right;">0.00</td> <td colspan="2">Property Owner Information (use for online payment)</td> </tr> <tr> <td colspan="2">CURRENT CHARGES</td> <td colspan="2">OWNER NAME: [REDACTED]</td> </tr> <tr> <td>HOUSING</td> <td style="text-align: right;">\$ 131.43</td> <td>LOCATION: [REDACTED] BLACKFORD AV</td> <td>APN: [REDACTED]</td> </tr> <tr> <td>MEDIATION</td> <td style="text-align: right;">\$ 19.50</td> <td>BUSINESS LIC: 000000</td> <td>APTS: 3 GSTRMS: 0</td> </tr> <tr> <td>EVICTON NOTICE</td> <td style="text-align: right;">\$ 0.00</td> <td colspan="2"></td> </tr> <tr> <td>SUBTOTAL</td> <td style="text-align: right;">\$ 150.93</td> <td colspan="2"></td> </tr> <tr> <td>PENALTY & INTEREST</td> <td style="text-align: right;">\$ 0.00</td> <td colspan="2"></td> </tr> <tr> <td>REINSPECTION</td> <td style="text-align: right;">\$ 0.00</td> <td colspan="2"></td> </tr> <tr> <td>TRANSFER</td> <td style="text-align: right;">\$ 0.00</td> <td colspan="2"></td> </tr> <tr> <td>REINSTATEMENT</td> <td style="text-align: right;">\$ 0.00</td> <td colspan="2"></td> </tr> <tr> <td>TOTAL DUE</td> <td style="text-align: right;">\$ 150.93</td> <td colspan="2"></td> </tr> </table> | PRIOR BALANCE | 0.00 | Property Owner Information (use for online payment) | | CURRENT CHARGES | | OWNER NAME: [REDACTED] | | HOUSING | \$ 131.43 | LOCATION: [REDACTED] BLACKFORD AV | APN: [REDACTED] | MEDIATION | \$ 19.50 | BUSINESS LIC: 000000 | APTS: 3 GSTRMS: 0 | EVICTON NOTICE | \$ 0.00 | | | SUBTOTAL | \$ 150.93 | | | PENALTY & INTEREST | \$ 0.00 | | | REINSPECTION | \$ 0.00 | | | TRANSFER | \$ 0.00 | | | REINSTATEMENT | \$ 0.00 | | | TOTAL DUE | \$ 150.93 | | | <p style="text-align: center;"><u>PENALTIES FOR LATE PAYMENT</u></p> <p>30 DAYS PAST DUE: 25% OF PRINCIPAL 60 DAYS PAST DUE: 50% OF PRINCIPAL + 1.5% INTEREST PER MONTH ON PRINCIPAL</p> | | |
| PRIOR BALANCE | 0.00 | Property Owner Information (use for online payment) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CURRENT CHARGES | | OWNER NAME: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| HOUSING | \$ 131.43 | LOCATION: [REDACTED] BLACKFORD AV | APN: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| EVICTON NOTICE | \$ 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SUBTOTAL | \$ 150.93 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PENALTY & INTEREST | \$ 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| REINSPECTION | \$ 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TRANSFER | \$ 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| REINSTATEMENT | \$ 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL DUE | \$ 150.93 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>RETURN LOWER PORTION WITH YOUR PAYMENT. For change of address or ownership updates you can e-mail CEAddressUpdate@sanioseca.gov. You can also call (408) 535-7770 with questions or updates to account information.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Source: Example of an actual Residential Occupancy Permit invoice

Different City departments have different levels of oversight for the City’s multiple housing properties and provide overlapping inspections for various housing, fire, and building code conditions as described below.

Code Enforcement inspects multiple housing properties with three or more units on a 6-year cycle. Code Enforcement’s Multiple Housing Inspectors enforce compliance with minimum housing and building codes. They inspect properties for landscaping, blight, graffiti, guardrails, fire extinguishers, infestation, mold, electrical wiring, smoke detectors, etc.; and they can issue administrative citations for non-compliance.

The **Housing Department** also provides oversight to some multiple housing properties, specifically, those falling under the City’s affordable housing programs.¹⁶ As of October 2013, there are about 160 properties under Housing oversight. The Housing department’s inspection overlaps substantially with the routine inspection conducted by Code Enforcement’s Multiple Housing

¹⁶ Property owners enter a covenant with the City that certain affordability restrictions are met for a set period of years for housing units in their development.

inspectors. However, unlike Code Enforcement inspectors, Housing inspectors do not have the ability to issue administrative citations; Housing inspectors rely on enforcing contract compliance to compel property owners to bring the property into compliance.

The **Fire Department** does annual inspections of the exterior and interior public areas in multiple housing properties for compliance with the California State Fire Code. The Fire Department's inspection includes inspection and testing of the fire protection systems, accessibility of exit doors, labeling of electric circuit breakers, and fire extinguishing systems. The Fire Department issues a written notice of non-compliance and may re-inspect the property to ensure compliance.

Information Should Be Shared and Inspections Coordinated

These three departments not only maintain completely separate databases for their inventory, but also fail to coordinate inspections or share information on findings including, but not limited to, non-compliance, unsafe habitats, and code violations.

The Housing department also reported that property owners have in the past complained about the overlapping inspections that they have to go through. The department attempts to minimize this by relying on the property owners to inform them of the overlap.

In our opinion, coordinating these multi-departmental visits and sharing findings is critical to the safety of the residents and the success of the programs.

Some Properties Were Missing From the Multiple Housing Roster

We compared the multiple family units as shown in the Sewer Use database¹⁷ to the Multiple Family Roster and found that the Roster used by Code Enforcement may be incomplete. A cursory review of a sample of 328 unmatched records, found at least 40 properties that did not appear to be listed in Code Enforcement's Multiple Housing Roster (Access database). Code Enforcement is in the process of researching the properties provided by the Auditor's Office to determine whether these properties are, in fact, missing from the roster.

Some of the missing properties had not been added to the Roster because they were newly constructed and Code Enforcement was not aware that a Certificate

¹⁷ The City charges a sewer and storm drain fee through the Santa Clara County's property tax roll. The City provides the County information on which properties to include. This information is included in the Sewer Service and Use database. In order to determine if the roster was complete, we compared the multiple housing apartment units in the Sewer Service and Use database to the multiple housing roster.

of Occupancy¹⁸ had been issued. For example, an apartment complex with 15 units was missing from the roster. According to Code Enforcement staff, the building underwent a major structural remodel in 1997. Further, the property owner requested that the permit be closed due to lack of occupancy due to the construction. The permit was closed in 1998 and never re-opened when the project was completed. We should note that on two separate occasions, Code Enforcement Multiple Housing Inspectors responded to complaints at this same property but never checked to see if this property had an ROP on file. One visit was in 2007 and the next visit in 2013. Code Enforcement assures us that a new ROP will be opened and the property will be put on the inspection cycle.

The Fire Department's Multiple Housing Inventory Is Incomplete

When we compared the Multiple Housing roster to the Fire Department's inventory we found the Fire Department's inventory of multiple housing units does not match with Code Enforcement's multiple housing inventory. Currently there are about 5,055 multiple housing building records in the Fire Department's multiple housing inventory, whereas Code Enforcement's roster lists about 6,652 buildings. Part of the discrepancy can be explained by the fact that the Fire Department does not inspect tri-plexes, thus excluding approximately 400 three-unit buildings included in Code Enforcement's roster.

Furthermore, we found that the Fire Department has not updated its inventory since at least 2008 when the data was first entered into FireHouse which is the Fire department's record keeping software. It should be noted that even at this time, the data was not vetted for accuracy or validity against the current Multiple Housing Roster.

Finally, we found multiple properties such as condos and duplexes on the Fire department's roster which do not actually fall under either Code Enforcement's inspection program or the Fire Department's required inspections. Condo, duplex, and single family property owners do not pay for a ROP, therefore should not receive an inspection under the ROP program which pays for the Fire department inspections.

In essence, properties missing from the Fire Department's inventory have been paying for a service not provided, and in a few instances, the Fire Department is providing a service for properties that have not paid for it. For example, we found several instances of single family residences and condominiums on the Fire Department's inspection list from FY 2012-13.

¹⁸ A Certificate of Occupancy is issued to the owner by the City's Building Division, once the final building inspection approval has been granted for 1) A newly constructed building or structure built for a specific use and occupant, 2) An interior finish of a shell for specified occupant. 3) A tenant improvement for a change in use or change in the existing occupancy classification. 4) Multiple housing buildings, R-1, R-2 & R-6 occupancies (condominiums and 3 or more unit apartments, hotels/motels, guest houses, residential care facilities, residential service facilities, emergency residential shelters, fraternities and sororities) will receive a single Certificate of Occupancy for each building.

In 2012-13, the Fire Department May Not Have Completed Many Required Inspections

We found that even among the properties that were on the Fire Department's own inventory of properties due for inspection, the department may not have completed or documented their annual required inspections. Specifically, FireHouse records indicate that the department only inspected about 4,300 of the 5,500 properties; by comparison there are 6,600 properties included in Code Enforcement's inventory. Part of this discrepancy could be explained by the fact that the Fire Department inspectors may not regularly document its inspections.

As we pointed out in our audit of *Fire Prevention: Improve Follow-Up On Fire Code Violations, Prioritize Inspections And Target Public Education To Reduce Fire Risk*,¹⁹ 26 percent of outstanding fire safety violations were in multiple family residences. The audit recommended targeting inspection follow-ups to reduce outstanding violations. However, the first step would be actually completing **all** required initial inspections on an annual basis.

Recommendation #7: The Administration should establish a coordinated approach to its Code Enforcement, Fire, and Housing Department inspection programs. As part of this coordination it should:

- a) **Develop a complete list of Multiple Housing properties funded through the Residential Occupancy Permit and ensure consistency between the Code Enforcement Multiple Housing inspection program and the Fire Department's inspection program;**
- b) **Eliminate duplication between Code Enforcement and Housing Department inspections of the City's affordable housing programs' properties;**
- c) **Complete and document all required annual inspections in a timely manner; and**
- d) **Develop a process to share findings between departments, regarding violations found and actions taken, on a regular basis.**

¹⁹ <http://www.sanjoseca.gov/DocumentCenter/View/14917>

Buildings Zoned as Condominiums Do Not Fall Under the Purview of the Residential Occupancy Permit Program

As noted before, the Municipal Code defines which properties fall under the purview of the ROP oversight. Buildings that are zoned as apartments fall under this purview. However, it is not clear what happens to a building that is zoned as a condominium but functioning as an apartment. In other words, even though some buildings are slated to be condominiums and individual units sold, after the project is completed, a developer may decide to simply rent each of the units. For example, one property that is not under ROP purview is The Elan at River Oaks Apartment complex. This was zoned as a condominium but essentially functions rents out all their units as an apartment complex.

The Residential Occupancy Permit Program Intends to Protect Renters

The goal of the program is to provide minimum safety and habitability standards for renters. According to the 2010 U.S. Census, about 41 percent of San José residents are renters, and approximates the total number of renter-occupied housing units at 125,000. By comparison, the Multiple Housing Program last issued Residential Occupancy Permits for about 84,000 units in FY 2012-13. The net difference of about 41,000 units could mean that as much as a third of San José renters (or 13 percent of San José's total residents) are not receiving the same level of service afforded to other rental residents. Besides condominiums some of this difference also includes single family rentals and duplexes which would not be covered under the definition of a multi-family dwelling (minimum of 3 units)

The current policy to exclude condominiums that may house hundreds of renters defeats the underlying purpose of the program and puts a significant portion of San José's renters at risk. At the moment, rented single family residences and condominiums are not subject to proactive routine inspections. The City of Sacramento, on the other hand, does not distinguish between the type of building and instead includes all rental housing in their inspection program including single family residences that are being used for rentals. Expanding San José's Residential Occupancy Permit to include condominiums would require an amendment to the Municipal Code.

Recommendation #8: The City Administration should propose to expand the Residential Occupancy Permit program to include condominiums functioning as rental apartment complexes.

Routine Inspections Should Be Conducted More Frequently for Properties With Complaints

While the Municipal Code requires a ROP for certain properties and allows for inspections, it does not actually define the frequency of those inspections. Code Enforcement has determined that it can only inspect properties on a 6-year frequency based on its current workload (discussed at the end of this finding).

The same inspectors that are assigned to the routine inspections also respond to complaints regarding multiple housing properties. When an inspector visits a property to respond to a complaint, Code Enforcement's policy is that the inspector only looks at the complaint, not the building as a whole.

Exhibit 22 (below) lists the number of complaints and inspections for the 23 properties that Multiple Housing inspectors visited 10 or more times during FY 2012-13. Those 23 properties had from 1-7 complaints each and 10-21 inspections each, yet only 2 of these properties received a full routine inspection because only 2 of them were 'eligible' for their annual full inspection.

Not only would it be logical for inspectors visiting these problem properties to do a full inspection, it would also be prudent for the City to put them on a more frequent inspection cycle.

We should also note that the property with the most number of inspections in Exhibit 22 was not charged a single re-inspection fee for any of the 21 inspections conducted during FY 2012-13.

Exhibit 22: List of Multiple Housing Properties Visited 10 or More Times During FY 2012-13

| Address | Number of Complaints | Total Number of Inspections |
|-------------------------|----------------------|-----------------------------|
| 726 S 10th St | 4 | 21 |
| 253 N 6th St | 4 | 16 |
| 1164 Curtiss Av | 5 | 15 |
| 5684 Hoffman Ct | 2 | 14 |
| 1360 Lick Av | 2 | 14 |
| 891 S 3rd St | 1 | 13 |
| 1346 Lick Av | 2 | 13 |
| 600 Epic Wy | 1 | 12 |
| 855 S 3rd St | 1 | 12 |
| 3125 Dakan Ct* | 4 | 12 |
| 1991 Story Rd | 7 | 12 |
| 784 Vine St | 5 | 11 |
| 776 Deland Av | 3 | 11 |
| 455 S 8th St | 2 | 11 |
| 361 S Willard Av | 4 | 11 |
| 1165 Francisco Av | 1 | 11 |
| 1299 E Julian St | 4 | 11 |
| 1376 Essex Wy | 1 | 11 |
| 529 S 10th St | 4 | 10 |
| 339 Willow St | 2 | 10 |
| 225 E Taylor St | 2 | 10 |
| 272 La Pala Dr** | 7 | 10 |
| 2242 Shamrock Dr | 3 | 10 |

Source: Auditor analysis of CES data.

* These properties also received a Routine Multiple Housing inspection during FY 2012-13.

Recommendation #9: Code Enforcement should provide its inspectors with the authority to do a full inspection of problem properties when warranted and to put properties with persistent problems on a more frequent full inspection cycle.

Prioritizing Routine Annual Inspections Using a Risk-Based Approach

As shown above, some properties have more problems and are at a higher risk than others. However, Code Enforcement's approach to conducting the routine inspections is to treat all properties the same. Currently Code Enforcement's 11 actual multiple housing inspectors proactively inspect the entire inventory of 6,600 buildings on a 6-year cycle. Code Enforcement administration has repeatedly emphasized that the goal of the program is to complete all required inspections within the cycle. Further, Code Enforcement rarely does a routine inspection out of the cycle even if the property has received multiple complaints. For many of the buildings in Exhibit 22 above, it may have been more productive for the inspector to do a full routine inspection perhaps after the first two complaints as a method of intervening and identifying problems sooner.

Code Enforcement Is Considering Revamping the Residential Occupancy Permit Program

In 2013-14, Code Enforcement Division embarked on a project to explore the possibility of including a self-certification component in the ROP program. A self-certification program allows qualifying properties in a pre-determined profile to self-inspect and self-certify. Those enrolled in the self-certification program would be inspected less frequently by Code Enforcement's proactive Multiple Housing program. However, those properties not qualifying, whether for age, violation history, or property type, would receive a more frequent proactive inspection. Likewise, the ROP fees would be scaled to reflect the level of service garnered, depending on enrollment in the self-certified program. For example, more frequent inspections would result in a higher annual fee than fewer inspections spread out over more years. At the current annual rate of \$43.81 per unit for a routine full inspection conducted once every six years, property owners are essentially paying over \$250 per unit inspected.

Initially, Code Enforcement proposed that the self-certification program would be available to properties built within the past ten years. The intent of the program was to reduce the number of proactive inspections, thereby reducing the cycle time to inspect the full inventory of multiple housing properties.

A Risk-Based Approach Should Include Factors Other Than Age

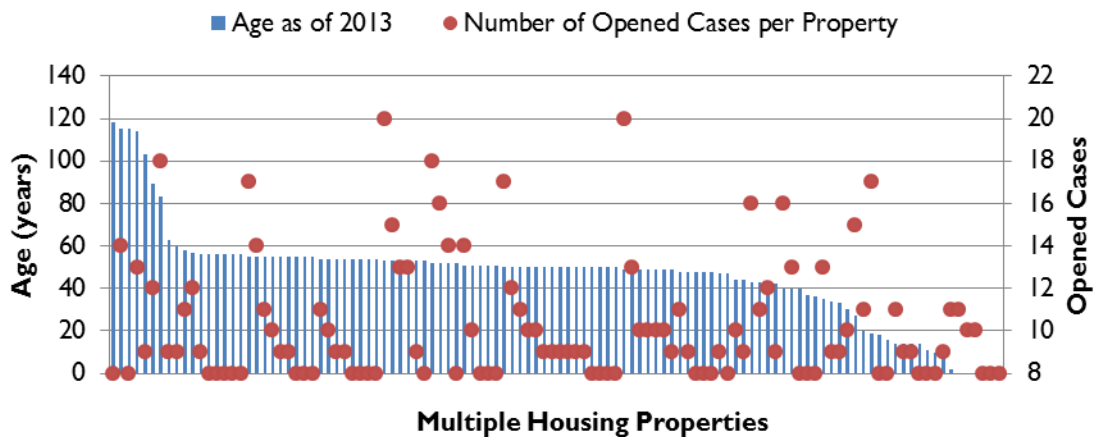
When we did our own analysis to determine the impact of this proposal we found that the number of buildings falling into the "younger than 10 years" group was insignificant and it would have a minimal impact on Code Enforcement's workload. Specifically, we found that only 57 of the 4,400²⁰ multiple housing properties on the multiple housing roster were built in the past 10 years. As

²⁰ There are 4,400 multiple housing properties, consisting of 6,600 buildings within San José.

shown in Exhibit 20 earlier, the bulk of multi-family buildings are now 40-60 years old, with only a small percentage of multiple housing buildings built within the last 10 years.

Furthermore, our analysis also showed that there was no correlation between the age of the property and the problem properties. As is shown in Exhibit 23 below, the age of a property does not correlate to the number of new Code Enforcement cases opened on that property.

Exhibit 23: Multiple Housing Properties Plotted by Age and Number of Opened Cases Between FY 2007-08 and FY 2012-13



Source: CES, Auditor analysis of multiple housing properties inspections by date opened and the age of each property according to the record on file with the Santa Clara County property roll.

We should also note that Code Enforcement’s data does not actually include the age of all the properties. Code Enforcement relies on data uploaded from the County of Santa Clara’s property information to the AMANDA database, which is updated on a weekly basis. However, it appears that while the property information is routinely updated, this update does not consistently include the age of the property, which is crucial for this type of analysis.

Recommendation #10: Code Enforcement should work with in-house IT staff to fix the County of Santa Clara data upload and ensure that the age of the multiple housing properties (year built) is included in the property profile.

Using a Risk-Based Approach to Provide Inspection Services Would Be Prudent

Routine inspections provide residents with assurance that minimum housing and sanitary standards are being satisfied for renters. However, as our data will show, Code Enforcement appears to be providing more of a complaint-based service. One of the differences in a routine inspection and a complaint is that for a routine inspection an inspector reviews the entire property-interior and exterior whereas for a complaint the inspector only looks at the complaint- nothing else. The number of complaints and subsequent inspections and re-inspections could be an indication of a need for doing more of the routine full inspections.

Other Jurisdictions Provide a More Risk-Based Approach to Inspections

The City of Sacramento has a self-certification program that does not include the age of the property as a risk profile for allowing self-certifications. The Self-Certification Program requires owners to perform their own inspections of each rental unit on an annual (calendar year) basis and upon any change in tenancy. The Rental Housing Program randomly inspects 10 percent of the properties that have been self-certified to verify that the property is maintained. If the property is found in compliance, the property will continue in the Self-Certification Program. As long as the property is maintained and no violations exist, the property will continue in the Self-Certification Program. If the property does not pass inspection, it will no longer be eligible for the Self-Certification Program and will be subject to annual inspections until such time as it does pass inspection. The cost for the continuing inspection is \$127 per each unit inspected. Essentially Sacramento ties the inspection to the condition of the property – not some arbitrary number tied to workload.

The City's Housing Department is also in the process of developing and implementing a risk-based approach for its affordable housing project inspections. Specifically, Housing procedures will require all properties to be inspected every three years, but annually for problem properties. Problem properties will be assessed based on pre-determined factors. These include age of the property, population type, and condition of the interior and exterior of the building. The highest weighting is given to a buildings' interior and exterior condition. The higher the scoring the more frequent the inspections.

Recommendation #11: Code Enforcement's Multiple Housing Program should adopt a risk-based inspection process. The risk profile should include risk factors such as history of complaints, problems discovered in prior inspections, response time of the landlord or the property manager in fixing violations, and age of property.

Tenants Should Be Informed of Deficiencies Found

Code Enforcement inspectors contact property owners or their representatives to schedule inspections. Property owners or their representative are required to be present during the inspection. However, no information is provided to the tenant as to the purpose of the routine inspection, what types of violations have been found, or even to alert them that an inspection occurred.

The City of Sacramento's Code Enforcement inspectors document violations on a triplicate form at the end of the inspection. A copy is left for the tenant as well as the property owner for each unit inspected. Informing a tenant about the possibility of dangerous conditions is critical to ensuring tenant awareness of minimum housing and safety standards.

Recommendation #12: To ensure tenants are aware of deficiencies found in their place of residence, Code Enforcement should formally inform tenants of the violations found and the deadline for compliance.

Multiple Housing Inspector Workloads Vary

In FY 2012-13 the Code Enforcement inspectors completed over 900 initial proactive inspections as part of the annual 6-year inspection cycle. This means that each inspector was assigned on average about 82 properties to inspect annually on a proactive basis. This works out to fewer than 7 new proactive property inspections completed on a monthly basis, or a little under 2 new full proactive inspections a week.

Some properties have a large number of units that may require additional time. However, most of San José's multiple housing properties have fewer than 10 units each. Specifically 66 percent of its inventory has fewer than 10 units in a building, about 30 percent of buildings have between 11-50 units and fewer than 4 percent of buildings have more than 50 units. Even though buildings with a large number of units may require more time to inspect, inspectors are not required to inspect each and every unit in a building. Some inspectors complete 100 percent of all units, whereas some complete the minimum required. For buildings that have over 50 units, the standard of inspection is generally 10 percent of units.

Part of the reason that each inspector is only completing an average of 7 proactive property inspections a month, can be explained by the high number of complaints inspectors respond to. In addition, if a violation(s) is found during a routine inspection, the property will require at least one, if not multiple, re-inspections. This means revisiting the same property multiple times.

Also, as shown in Exhibit 24, many of the routine proactive multiple housing inspections require a follow-up re-inspection – inspectors conducted 906 proactive initial inspections and 903 re-inspections during FY 2012-13. This was even truer of complaint-based inspections – inspectors conducted 910 complaint-based inspections, and 1,056 re-inspections.

Exhibit 24: Multiple Housing Inspectors’ Workloads for FY 2012-13

| Multiple Housing Inspectors | Proactive Inspections | | | Complaint-Based Inspections | | | Total Case Inspections |
|-----------------------------|-----------------------|----------------|-----------------|-----------------------------|----------------|-----------------|------------------------|
| | Initial Inspections | Re-Inspections | Total Proactive | Initial Inspections | Re-Inspections | Total Complaint | |
| #1 | 125 | 121 | 246 | 147 | 94 | 241 | 487 |
| #2 | 92 | 134 | 226 | 158 | 222 | 380 | 606 |
| #3 | 136 | 79 | 215 | 63 | 36 | 99 | 314 |
| #4 | 101 | 105 | 206 | 89 | 123 | 212 | 418 |
| #5 | 21 | 13 | 34 | 153 | 162 | 315 | 349 |
| #6 | 76 | 86 | 162 | 92 | 181 | 273 | 435 |
| #7 | 84 | 64 | 148 | 82 | 74 | 156 | 304 |
| #8 | 104 | 150 | 254 | 49 | 49 | 98 | 352 |
| #9 | 73 | 56 | 129 | 0 | 0 | 0 | 129 |
| #10 | 55 | 45 | 100 | 18 | 16 | 34 | 134 |
| #11 | 30 | 35 | 65 | 43 | 61 | 104 | 169 |
| Other ²¹ | 9 | 15 | 24 | 16 | 38 | 54 | 78 |
| TOTAL | 906 | 903 | 1,809 | 910 | 1,056 | 1,966 | 3,775 |

Source: Auditor analysis of CES historical data.

As described in Finding 1 of this report, we believe inspectors may need additional tools to help facilitate inspections.

Recommendation #13: Code Enforcement should review and track multiple housing inspector caseloads, inspections, and re-inspections for both proactive and complaint-based cases.

Multiple Housing Inspectors Spend Over Half Their Time on Re-Inspections, But Rarely Charge for It

As indicated by Exhibit 24 above, Multiple Housing Inspectors conducted a total of 1,959 re-inspections of properties. This represents 52 percent of their workload for FY 2012-13. Also telling is that the number of proactive inspections requiring follow up is nearly as many as initial inspections, 903 compared to 906 respectively.

²¹ Other inspectors may be assigned to Multiple housing cases, but we did not call them out individually because their MH caseload is relatively small.

In general, Code Enforcement charges a re-inspection fee if an inspector has to go back to re-inspect a violation that has not been addressed after the initial two inspections. In other words, the re-inspection fee is only charged for the second re-inspection, which is in fact the third inspection in the series.

Code Enforcement estimates that \$5,340 in re-inspection fees were assessed in FY 2012-13 (at a rate of \$192 per re-inspection) for Multiple Housing re-inspections. In reality, we estimate the number of **chargeable** re-inspections totaled 688 (proactive and complaint based re-inspections) for the year, equating to about \$132,000. The net difference is just over \$126,000 in uncollected fees. Furthermore, if Code Enforcement were to charge re-inspection fees for **all** 1,959 proactive and complaint re-inspections conducted during FY 2012-13 the amount due would increase to \$376,000.

Current practice dictates that Code Inspectors charge the mandatory fee only after the second visit warrants returning for a third inspection. However, Multiple Housing property owners receive an annual inspection list preceding the initial inspection for those routine proactive inspections. Thus, property owners (landlords) are fully aware of the expectations of minimum housing standards and the extent of the inspection to be conducted well in advance of the actual inspection. As such, we believe it is appropriate to charge a re-inspection fee in the event that an inspector needs to return after the initial visit to conduct a second inspection. The point of a re-inspection fee is to encourage compliance in a timely manner.

Recommendation #14: Code Enforcement should review its Multiple Housing re-inspection fee policy and determine if it can assess re-inspection fees on the second visit. Further, all applicable re-inspections should be charged the mandatory re-inspection fee.

The Multiple Housing Fee Program Has Had Surpluses for Nearly 3 Years

The ROP permit fee is a Category I fee. This means that it is intended to be 100 percent cost-recovery. As mentioned above, part of the fee pays for the Fire Department's multiple housing inspection program. The fee is calculated by estimating staff costs, overhead and non-personal costs.

Billed versus Inspected

The ROP fee for FY 2013-14 was intended to cover the nearly \$4 million cost of Code Enforcement's multiple housing program, and \$760,000 for the Fire Department's program (75 percent of one engine's time). The Fire Department's portion of the fee is calculated using the multiple housing inventory established by Code Enforcement (about 86,000 units).

However, the inconsistency between the Fire Department's multiple housing inventory and Code Enforcement's inventory and the resulting inspections and the actual completion rate of the Fire department inspections results in a gap in service to some residents when either of these do not happen.

Surplus Fee Revenue

We found that in FY 2012-13, Code Enforcement's portion of the Multiple Housing program was budgeted for about \$3 million. However the total expenditures for the program were \$2 million. This means that there was a surplus of nearly \$1 million. Similarly, there were surpluses of \$937,000 and \$581,000 for FY 2010-11 and FY 2009-10 respectively. Code Enforcement has had multiple vacancies over the past three years, which generated these surpluses. Current practice is to roll the surplus into the General Fund even though the fees are originally slated for use in the Multiple Housing program.

In our opinion, any leftover monies should be used to fund Code Enforcement programs benefiting the multiple housing programs and completing all required Fire inspections.

Recommendation #15: Code Enforcement should work with the Budget Office to determine if the Residential Occupancy Permit fees can be re-budgeted to pay for multiple housing program efficiencies such as upgrading computer systems and increasing Fire department inspections.

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Finding 3 Technology Improvements Are Needed

Summary

Code Enforcement staff routinely use at least three databases in their daily work: one database to track each case and document inspections (CES); a second database to track their workload (Access); and a third to research property status and history (AMANDA). We recommend Code Enforcement review options for replacing or enhancing its CES database, including options for mobile units and interfacing with other City databases.

Code Enforcement Uses Multiple Databases for Different Programs

Code Enforcement currently uses Code Enforcement System (CES) to track actions taken on each case. Multiple Housing inspectors also use CES to document results of their inspections. CES is an “off-the-shelf” database management software. The system dates back to 1998, with one system update around 2000. According to staff, the database is cumbersome to use and does not interface with other City systems. For example, CES doesn’t consolidate fee and fine information with the citations for which the fee or fine was issued. The database is updated regularly with new County Property Roll information.

Workload for Multiple Housing inspectors is, however, tracked in a different Access database. The Access database is used to assign routine Multiple Housing inspections. This is generally a workload management database and does not contain the results of inspections or case history. Inspections and subsequent violations still have to be entered separately into CES.

In addition, if inspectors need to research information on property history, they must use a different database – AMANDA. AMANDA is a database management software predominantly used by the Planning and Building division. Although this system is used by a wider audience throughout the City, Code Enforcement uses AMANDA to look up permit information when researching complaints. AMANDA is also updated regularly with County Property Roll information. AMANDA is used to update the routine list of Multiple Housing inspections that “appear” on the Access database.

The Fire Department tracks inspection data (including violations found) in FireHouse. FireHouse is used by the Fire Department to generate their inventory of Fire inspections for multiple housing properties. The list of multiple housing properties has not been updated recently, and it is unknown when the last update occurred.

Finally, the Housing Department tracks their inspection data in SalesForce/Excel²². None of these databases interface with each other. Each department provides valuable inspections which protect life and property of San José residents. Information received from these inspections needs to be shared and perhaps entered into the same database in order to provide a more coordinated and comprehensive response.

Code Enforcement Needs to Leverage Technology to Improve Response Times

Code Enforcement's primary database (CES) was installed in 1998 and has only been updated once since then. Because of system limitations, Code Enforcement inspectors do not have the ability to access the system while out in the field. According to Code Enforcement, some inspectors have laptops in their cars and use their smartphones as a WiFi hotspot to connect remotely to CES. The majority of inspectors take hand notes in the field of their findings.

As a result, this process means that when inspectors complete inspections, they return to the office with handwritten notes, document each and every case in CES, research any residual permit information, and then send out the required notices as a result of the inspections by mail to the responsible party. Code Enforcement estimates that a new software system that includes remote access from mobile devices would greatly improve their timeliness. Further, updated software could potentially interface directly with PBCE's primary database (AMANDA) to retrieve property information while in the field.

The City of Sacramento has mobile laptops in all their Code Enforcement vehicles. This provides staff access to property information while in the field. Further, inspectors are able to document cases as soon as they have completed the inspections.

Improving timeliness of response to resident's complaints would provide City residents with better service.

Recommendation #16: Code Enforcement review options to replace or enhance its code enforcement database (CES) and include options for mobile units and interfacing with other city databases.

²² The Housing Department is currently in the process of transferring its data from an Excel spreadsheet to its SalesForce database.

Accuracy of the Multiple Housing Database Is Reliant on a Manual Process

As discussed in Finding 2, the Multiple Housing roster was missing some multiple housing properties which should have been included as part of Code Enforcement's inspection cycle. Code Enforcement staff told us that while staff occasionally checks the AMANDA database for newly issued Certificates of Occupancy, which would alert them that a new multiple housing property has been constructed, this procedure is not done on a regular basis and is not automated. In our opinion, checking a multitude of databases which do not interface is inefficient and should be automated and improved.

Recommendation #17: In order to ensure that the Multiple Housing roster is complete, Code Enforcement should:

- a) **Periodically update its Multiple Housing Roster with newly issued Certificates of Occupancy from the AMANDA database; and**
- b) **Automate the process when it replaces its database.**

Improvements Are Needed to Make the Web-based Complaint Process More User-Friendly

As mentioned above, Code Enforcement provides residents with an online option for submitting Code complaints. However, the online option is limited to email and lacks concrete instructions on what type of information the complaining party needs to provide. Further, in-take staff reports that typically the information provided is not adequate, and they often go back and forth with the complaining party to obtain the required information.

By contrast, the City's Department of Transportation (DOT) website already has a web-based form for submitting online complaints about abandoned vehicles. The form includes required fields for the basic information needed by DOT to respond to the complaint and also includes a mapping component to pinpoint exactly where the alleged violation is occurring. We believe it may be possible for Code Enforcement to simply lift this HTML coding to embed a similar form on their website. Exhibit 25 below highlights DOT's easy-to-use web form.


Exhibit 25: Department of Transportation's Web-based Complaint Form

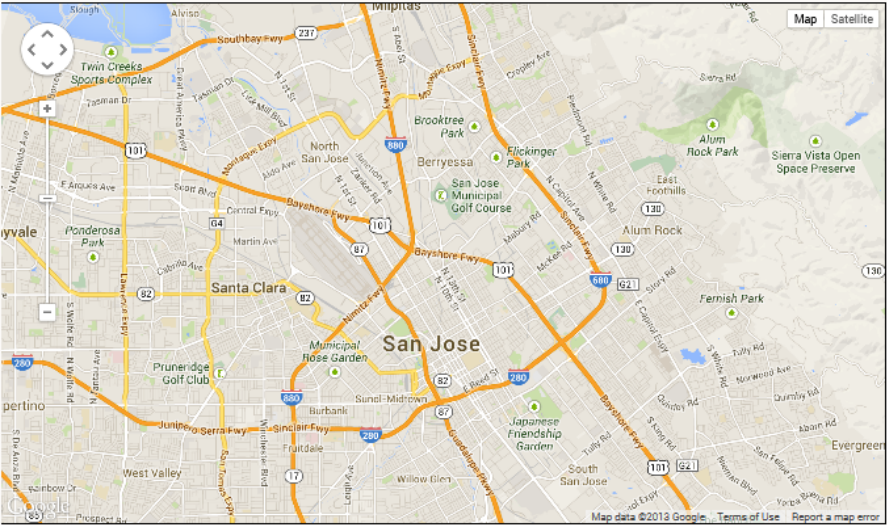
Home > Government > Departments & Offices > Departments & Offices P-Z > Transportation > Parking > Vehicle Abatement > Service Request

Service Request

Step 1: Vehicle Location Step 2: Vehicle Details and Submit

1 Use the search box then click on search button to find an approximate location on the Map
Enter your location here.

2 Move the  icon to position the exact location.



3

Source: DOT Website (<http://www.sanjoseca.gov/index.aspx?NID=1996>)

Recommendation #18: Code Enforcement should work with the Information Technology Department (using DOT's example) to provide a simple web-based complaint form that is easily accessible on Code Enforcement's website.

Finding 4 CDBG Program Spending

Summary

Code Enforcement has been unable to spend \$2.6 million of Community Development Block Grant (CDBG) funds since FY 2007-08 due in part to staff vacancies. We recommend Code Enforcement work with the Housing Department to improve the budgeting process, and determine if unexpended CDBG funds can be re-budgeted.

Code Enforcement Receives an Annual CDBG Grant

Code Enforcement receives annual CDBG funding through the Housing Department. The Housing Department has established a formal approach to ensure compliance with federal regulations and timely completion of CDBG projects. In order to achieve this, the Housing Department signs a formal Memorandum of Performance with Code Enforcement. This memorandum establishes performance goals and a project budget.

For FY 2012-13 Code Enforcement's project budget was \$1.3 million. The purpose of the project was to serve low/moderate income persons in the Five Wounds/Brookwood Terrace, Mayfair and Santee neighborhoods. Code Enforcement's CDBG program serves 12 census tract areas. Code Enforcement was to also participate in education and outreach activities, and provide information about "hot spots" to the Downtown Streets Team, a CDBG grantee. Code Enforcement inspectors also conduct surveys of exterior conditions visible from public right-of-ways of all residential structures in the designated neighborhoods. Finally, Code Enforcement staff was to conduct pre- and post-surveys to provide a comparison of neighborhood violations before and after proactive intervention.

Code Enforcement Has Been Unable to Spend \$2.6 Million of CDBG Funds Since 2007-08

A review of Code Enforcement actual expenditures versus budgeted allocation revealed that Code Enforcement has been unable to spend nearly \$2.6 million since 2007-08. This includes about \$270,000 for FY 2012-13.

Some of the unexpended funds are the result of vacancies. In fact, even in the FY 2012-13 Memorandum of Performance, Code Enforcement included staff that had retired or left the City as far back as FY 2011-12. The estimated budget, submitted well into the fiscal year, also included two known vacancies. Specifically, the Memorandum wasn't signed or approved until April 2013, which

is only two months from the end of the fiscal year.²³ By that time, Code Enforcement should have known the actual staffing needs for this program. In addition, while five Code Enforcement inspectors were designated to CDBG areas, only three actually ended up working in those areas.

Code Enforcement has not requested a re-budgeting of these funds, leaving residents in the low-income areas without the promised service. The Housing Department stated that unexpended CDBG funds can be re-budgeted and used for non-personal expenditures which would enhance service to these high-need neighborhoods. Code Enforcement has yet to take advantage of re-budgeting unused funds. Finally, as this case demonstrates, it is important that the Memorandum of Performance for a fiscal year be approved and signed at the beginning of the fiscal year and not at the end.

Recommendation #19: Code Enforcement should:

- a) Complete an estimated budget to be provided to the Housing Department in a timely manner and include only those staff that it actually intends to use in the CDBG program areas; and**
- b) Work with the Housing Department to determine if unexpended CDBG funds can be re-budgeted for use in these areas.**

Some CDBG Inspectors Were Assigned to Work Outside Designated CDBG Areas

As stated above, one of the conditions of the CDBG grant is to only provide service in pre-designated areas. The pre-designated areas are grouped by census tract. CDBG further refines the service area by designating block groups within the census tracts. These are important because they differentiate between allowable residential blocks and non-allowable commercial blocks. Code Enforcement assigns inspectors in CES according to census tracts, CDBG inspectors are exclusively assigned to the CDBG census tracts.

We found that of the 1,321 cases assigned to CDBG Code Enforcement inspectors, 91 were outside of the CDBG areas. This is less than one percent of the total cases. Part of the problem lies with CES's inability to assign block groups within the census tracts. As a result, it is up to the inspector to realize that he/she has been assigned outside their designated areas. Assigning cases to the block level of detail is not feasible with the current CES system capability.

²³ In fact in 2011-12 Code Enforcement and Housing did not even sign a formal MOP. According to staff, this was a result of staff turnover and they followed guidelines laid out by the draft MOP.

Recommendation #20: Code Enforcement should determine the feasibility of upgrading CES to ensure that the appropriate staff is correctly assigned to the correct census tracts.

Independent Post-Surveys Should Be Performed

As stated before, Code Enforcement inspectors are required to address blighted conditions observed during proactive sweeps. Further, a pre- and post-survey of blighted conditions is conducted in order to assess the efficacy of Code Enforcement intervention. Code Enforcement reports that CDBG areas have shown a 71 percent improvement in blight conditions for two of the three surveys.

However, we found that both the pre- and post-surveys are conducted by the same staff that does the actual intervention. While nothing in the CDBG grant condition disallows this, best practices would urge that these surveys should be done by two different people in order to provide the most independent assessment of the pre- and post-conditions. Code Enforcement staff agrees and has proposed that they will utilize two different CDBG inspectors to conduct the surveys.

Recommendation #21: In order to provide the most independent assessment of the efficacy of Code Enforcement intervention in CDBG areas, Code Enforcement should utilize a different inspector to conduct a post-survey of the CDBG blighted areas than the one that conducted a pre-survey.

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Finding 5 The Abandoned Cart Fee Is Far Below Cost-Recovery

Summary

The Abandoned Cart Fee is intended to be 100 percent cost recovery, but only collects about \$30,000 of the \$113,000 it costs to run the program. We recommend the Administration review the feasibility of increasing the Abandoned Cart Fee and increasing the number of companies that are mandated to participate in the program.

Abandoned Cart Program

In 2001 the City Council passed a Prevention of Abandoned Cart ordinance. The Municipal Code prohibits the unauthorized removal of a cart from a premise, or to be in possession of a cart that has been removed from a premise which is properly marked, without the written consent of the owner. Further, every owner who provides 26 carts or more,

who allows or intends to allow the use of carts shall develop, implement and comply with the terms and conditions of an abandoned cart prevention plan to prevent the unauthorized removal by any person of any carts from the owner's premises and, if removed, to retrieve the cart within twenty-four hours of the removal or notice of the removal.

Abandoned Cart Fee Is Far Below Cost-Recovery

The City charges each company that has 26 or more carts an annual fee of \$200. Currently there are 164 stores in this program. This 26 cart minimum is an arbitrary number that was intended to exclude smaller stores. However, the unintended consequence of this is that this also excludes chain retail stores such as CVS pharmacy, Walgreens and Dollar Store which may be just below the 26 cart threshold, but still benefit from the City's cart retrieval services.

The City Provides an Essential Service to Residents and Businesses

In prior years, Code Enforcement had a much stronger enforcement-oriented approach to dealing with abandoned carts. Staff would identify and visit "hot spots", tag the carts and inform companies to pick up their carts in twenty-four hours. If the carts were not picked up then companies would be cited through the administrative citation process.

Today, the program is different. The Solid Waste Enforcement Fee (SWEF) fee funds a Department of Transportation (DOT) maintenance worker to drive around the City and pick up any abandoned carts.²⁴ DOT does not track which companies' carts they pick up and further, they do not distinguish between companies that are actively participating in the Abandoned Cart Prevention Program. DOT then brings these carts back to the City's Mabury Yard where cart retrieval companies hired by the cart owners come on a regular basis and pick up the carts. Some carts are recycled because of their poor condition.

The City collects about \$30,000 from this fee, but it cost the City around \$113,000 to fund the program in FY 2012-13. While this fee has been designated a Category I fee (i.e. 100 percent cost recovery), its income is far below that goal. Code Enforcement estimates that it recovers about 30 percent of its annual cost. Further, the \$200 annual fee has not been increased since FY 2004-05 and does not reflect actual costs and service provided.

Recommendation #22: To improve the cost recovery of the Abandoned Cart program, the Administration should review the feasibility of increasing the number of participating companies in the program and/or increasing its annual fees.

²⁴ We should note that even though the SWEF funding was supposed to pay for 100% of the maintenance worker, DOT only allocated 60% of the maintenance workers time to the abandoned cart program. The remainder of the employee's time is spent picking up solid waste from pre-designated areas.

Conclusion

The City's Code Enforcement Division is the City's first responder to resident concerns regarding neighborhood habitability and sanitation. Our review of the Code Enforcement program found that improvements are possible, but resources are significantly strained.

RECOMMENDATIONS

Recommendation #1: To improve timeliness and responsiveness to routine complaints, the General Code Enforcement section should (as funding and staffing allows) provide more inspections for routine complaints. If it continues to send out postcards to complainants, it should match the return date on the postcard to the due date on the notice of complaint, and/or (as funding and staffing allows) follow-up by phone with complaining parties before closing cases.

Recommendation #2: To ensure timely resolution of violations, General Code Enforcement should review and establish maximum timeframes for compliance and provide training to its inspectors to ensure adherence to those timelines.

Recommendation #3: The Finance Department should provide a quarterly collection report to Code Enforcement and work together with Code Enforcement to determine citation collection prioritization.

Recommendation #4: Code Enforcement should develop criteria for when it should require properties be vacated and provide training to its staff on these criteria.

Recommendation #5: To increase the enforcement authority of Code Enforcement inspectors, we recommend the City Council amend the Municipal Code to allow Code Enforcement inspectors to issue misdemeanor citations. The Municipal Code and Code Enforcement policies and procedures should define under what circumstances misdemeanor citations can be issued and by whom.

Recommendation #6: Code Enforcement should:

- a) Collect fees for all re-inspections;
- b) Develop criteria for exceptions, if any; and
- c) Train its staff on assessing these fees.

Code Enforcement

Recommendation #7: The Administration should establish a coordinated approach to its Code Enforcement, Fire, and Housing Department inspection programs. As part of this coordination it should:

- a) Develop a complete list of Multiple Housing properties funded through the Residential Occupancy Permit and ensure consistency between the Code Enforcement Multiple Housing inspection program and the Fire Department's inspection program;
- b) Eliminate duplication between Code Enforcement and Housing Department inspections of the City's affordable housing programs' properties;
- c) Complete and document all required annual inspections in a timely manner; and
- d) Develop a process to share findings between departments, regarding violations found and actions taken, on a regular basis.

Recommendation #8: The City Administration should propose to expand the Residential Occupancy Permit program to include condominiums functioning as rental apartment complexes.

Recommendation #9: Code Enforcement should provide its inspectors with the authority to do a full inspection of problem properties when warranted and to put properties with persistent problems on a more frequent full inspection cycle.

Recommendation #10: Code Enforcement should work with in-house IT staff to fix the County of Santa Clara data upload and ensure that the age of the multiple housing properties (year built) is included in the property profile.

Recommendation #11: Code Enforcement's Multiple Housing Program should adopt a risk-based inspection process. The risk profile should include risk factors such as history of complaints, problems discovered in prior inspections, response time of the landlord or the property manager in fixing violations, and age of property.

Recommendation #12: To ensure tenants are aware of deficiencies found in their place of residence, Code Enforcement should formally inform tenants of the violations found and the deadline for compliance.

Recommendation #13: Code Enforcement should review and track multiple housing inspector caseloads, inspections, and re-inspections for both proactive and complaint based cases.

Recommendation #14: Code Enforcement should review its Multiple Housing re-inspection fee policy and determine if it can assess re-inspection fees on the second visit. Further, all applicable re-inspections should be charged the mandatory re-inspection fee.

Recommendation #15: Code Enforcement should work with the Budget Office to determine if the Residential Occupancy Permit fees can be re-budgeted to pay for multiple housing program efficiencies such as upgrading computer systems and increasing Fire department inspections.

Recommendation #16: Code Enforcement review options to replace or enhance its code enforcement database (CES) and include options for mobile units and interfacing with other city databases.

Recommendation #17: In order to ensure that the Multiple Housing roster is complete, Code Enforcement should:

- a) Periodically update its Multiple Housing Roster with newly issued Certificates of Occupancy from the AMANDA database; and
- b) Automate the process when it replaces its database.

Recommendation #18: Code Enforcement should work with the Information Technology Department (using DOT's example) to provide a simple web-based complaint form that is easily accessible on Code Enforcement's website.

Recommendation #19: Code Enforcement should:

- a) Complete an estimated budget to be provided to the Housing department in a timely manner and include only those staff that it actually intends to use in the CDBG program areas; and
- b) Work with the Housing Department to determine if unexpended CDBG funds can be re-budgeted for use in these areas.

Recommendation #20: Code Enforcement should determine the feasibility of upgrading CES to ensure that the appropriate staff is correctly assigned to the correct census tracts.

Recommendation #21: In order to provide the most independent assessment of the efficacy of Code Enforcement intervention in CDBG areas, Code Enforcement should utilize a different inspector to conduct a post-survey of the CDBG blighted areas than the one that conducted a pre-survey.

Recommendation #22: To improve the cost recovery of the Abandoned Cart program, the Administration should review the feasibility of increasing the number of participating companies in the program and/or increasing its annual fees.

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Memorandum

TO: Sharon Erickson
City Auditor

FROM: Joseph Horwedel

SUBJECT: Audit Response – Code
Enforcement Services

DATE: November 6, 2013

Approved



Date

11-13-13

This memorandum is in response to the recently completed audit of Code Enforcement services. We appreciate the efforts and professionalism of the City's Auditor's Office. We welcome the process and time invested by your staff to identify best management practices and efficiencies. The data collection, analysis and documentation of the audit provide fresh perspective and opportunities. We value the time spent by you and your staff to understand the challenges, complexity and importance of our services.

Overall, we understand and agree with the audit findings and have set a goal to implement all twenty-two recommendations within a twelve month period. It is understood that some recommendations will require Budget and/or Council approval, and we will seek their authorization within this period. Recommendations that address operational efficiency have been added to our twelve month strategic work plan. We have also started working with the other departments mentioned in the audit and are in the process implementing those recommendations.

The Fire Department will work with both PBCE (Code Enforcement) and Housing departments to align Fire House inventory with PBCE and Housing databases. In addition, Fire Department staff will evaluate resources that may be required to improve inspections, including the feasibility of allocating Multiple Housing funds to support additional resources.

The Finance Department will work to improve the revenue collection efforts for PBCE by shifting resources within the Finance Department to reassign staff. These resources will be devoted to identifying accounts with delinquent past due balances and coordinating activities to secure collections by procuring liens against real property. Currently assigned staff will continue to be dedicated to the ongoing direct collection efforts on accounts and citations originating from Code Enforcement services.

In addition to the general responses to the audit recommendations, we are providing specific responses to three of the recommendations as follows:

Recommendation #1: To improve timeliness and responsiveness to routine complaints, Code Enforcement should (as funding and staffing allows) provide more inspections for routine complaints. If it continues to send out postcards to complainants, it should match the return date on the postcard to the due date on the notice of complaint, and/or (as funding and staffing allows) follow-up by phone with complaining parties before closing cases.

Administration Response: The Administration agrees with this recommendation; however, additional resources to increase timeliness and responsiveness to routine complaints will need to be brought forward as part of the budget process and compete with all the funding needs and priorities within the organization. As part of the 2014-2015 budget process, the Planning, Building and Code Enforcement (PBCE) Department will work with the City Manager's Budget Office to determine the appropriate staffing level needs and, based on the City's budget situation and other PBCE Department priorities, bring forward recommendations for City Council consideration as appropriate to address this recommendation. For the postcards sent out to complainants, the return date on the postcard will be revised.

Recommendation #15: Code Enforcement should request re-budgets of Residential Occupancy Permit fees for multiple housing program efficiencies such as upgrading computer systems and increasing Fire department inspections.

Administration Response: The Administration agrees with the recommendation and will continue to consider re-budgeting unexpended funds for technology needs. As part of the 2012-2013 Annual Report, a re-budget of \$225,000 was approved for Code Enforcement non-personal/equipment needs. The funds were re-budgeted for the purchase of laptops for Code Enforcement Inspectors, technology programming services, and inspection modules for the Multiple Housing and Solid Waste Enforcement Fee Programs. In recent years, savings were primarily due to the high number of staff vacancies experienced in Code Enforcement. However, staff will work on filling these vacancies and/or using temporary staff to provide services. In addition, to more accurately align costs and revenues, the budgeted costs have been revised to better account for program costs.

Recommendation #19: Code Enforcement should: a) complete an estimated budget to be provided to the Housing department in a timely manner and include only those staff that it actually intends to use in the CDBG program areas; and b) work with the Housing Department to determine if unexpended CDBG funds can be re-budgeted for use in these areas.

Administration Response: The Administration agrees with the recommendation and the Planning, Building and Code Enforcement Department will continue to work with the City Manager's Budget Office to provide a projected budget (includes both personal services and non-personal/equipment expenditures) to the Housing Department for the CDBG program. The unexpended CDBG funds revert to the unrestricted ending fund balance of the CDBG Fund. The unrestricted fund balance is allocated to address priority needs. In

Sharon Erickson
November 6, 2013

Subject: Audit Response – Code Enforcement Services

Page 3

recent years, the unrestricted fund balance has been programmed to provide for the Section 108 debt service payments, which has no other dedicated funding source. The Section 108 debt service payments are now paid by the Community Development Block Grant Fund as a result of the dissolution of the San Jose Redevelopment Agency which previously made these payments. Per the agreement between the Federal Department of Housing and Urban Development, if the Successor Agency to the Redevelopment Agency is not able to make the debt service payment, CDBG funds are pledged to cover this obligation.

Your audit provided us with the in-depth management analysis that has not been possible to complete due to a nearly 24% reduction in resources resulting from the severe budget shortfalls that were required to be resolved over the last decade. We feel optimistic that as resources become available to implement your recommendations, especially those involving restoration of staff resources and investment in technology, the City will be able to restore services to the level our residents deserve and the Council will accept.

We look forward to continuing our work with the City Auditor's Office and City Council in finding ways to effectively deliver Code Enforcement services.

This memo has been coordinated with the Fire, Housing, and Finance Departments, the City Manager's Office, Budget Office and City Attorney's Office.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement