

DELAYED BUILDING AND SAFETY CODE ENFORCEMENT

SUMMARY

The San Luis Obispo County Grand Jury received complaints of delayed enforcement of the county's land and property use codes from three separate complainants. In each of the three complaints, a lack of diligence and cooperation on the part of the Department of Planning and Building and its Code Enforcement Division was cited. Each complaint stated that code violations were being ignored and proper enforcement delayed beyond a reasonable time frame. The complaints alleged that this delayed enforcement benefited a privately-operated homeless shelter, a commercial low-income housing provider and a residence which houses up to 20+ individuals, to the detriment of the quality of life in the surrounding neighborhoods.

The timely and evenhanded application of the county codes should be paramount for the Code Enforcement Division. During the Grand Jury's investigation, the responsiveness and decisiveness of this division were the issues being reviewed. In at least two of the cases, timely code enforcement was found to be wanting.

METHODS OF INVESTIGATION

- Interviews were conducted with over twenty individuals, including each of the three complainants.
- Documents were obtained concerning the three cases at the San Luis Obispo County Department of Planning and Building, the San Luis Obispo County Code Enforcement Division, Cal-Fire Department Headquarters, the San Luis Obispo County Assessor's office, the City of Morro Bay Department of Public Works, the San Simeon Community Services District and the San Luis Obispo Tribune newspaper. Additional documentation, submitted by the three complainants, and others, was reviewed.
- Testimony was taken under oath from members of the San Luis Obispo County Planning and Building Department, a San Luis Obispo County Supervisor and staff member, the

San Luis Obispo County Code Enforcement Division and private citizens concerned with code enforcement as well as water use and water pollution issues. In addition, officials from the State of California Department of Water Resources, the City of Morro Bay Department of Public Works, the San Luis Obispo County Health Department and CalFire were consulted.

- On site visual inspections were done within the limits of public access at each of the sites in question.
- E-mail correspondence between the complainants and various public officials was reviewed.

NARRATIVE

The Code Enforcement Division (Division) of the San Luis Obispo County Planning and Building Department handles a wide variety of enforcement actions. Most cases are generated by complaints filed with the Division by private citizens. Issues involving land and property use along with building and safety codes fall within its purview. This division operates with a great deal of latitude and with oversight from the Director of the Planning and Building Department.

Case #1: After a change in ownership in late 2003, a motel on the North Coast began renting standard rooms on an extended stay basis (longer than 30 days). According to testimony from a code enforcement officer, the residents of these motel rooms checked out every thirty days, only to check back in within the hour, thus technically qualifying them as transient tourists. By early September of 2004, subsequent to informal requests for code enforcement assistance, conditions at the motel prompted the San Simeon Community Service District (SSCSD), through its legal counsel, to formally request the assistance of the County Board of Supervisors with code enforcement issues. In the opinion of the SSCSD legal counsel, little corrective action was taken at the time. The rationale given by a Code Enforcement official is, “We are here to solve problems, not throw anyone out of their home.” Problems of petty crime, trash, noise, parking,

and the overcrowding of rooms were acknowledged by Code Enforcement Division personnel during interviews.

In early 2007, with the support of the SSCSD, the operator was successful in having the zoning for this motel changed to Residential Multi-Family (RMF). With this new designation in place, the motel rooms could be rented as apartments once they are brought up to full code standards as Efficiency Dwelling Units. This conversion process will require County Planning Commission as well as Department of Planning and Building approval. (See: International Building Code: 1208.4 Efficiency Dwelling Units, which the County Planning and Building Department references.) Additional approvals concerning water usage and sewage, controlled by the SSCSD, will also eventually be required.

In July of 2007, according to building department records, the owner of the motel agreed to make the necessary changes in order to bring the motel into full compliance with county codes as efficiency apartments. To date, the motel conversion process remains in the planning stage while many rooms continue to be occupied on a year round basis and according to the San Luis Obispo County Tax Collectors Office produce no transient occupancy tax revenue. It is the opinion of the Department of Planning and Building that as long as the “paper work” for the conversion to efficiency dwelling units is in progress, no further code enforcement action is warranted. According to Code Enforcement personnel testimony, little can be done by any county agency to investigate alleged in room violations due to “expectations of privacy” concerns. A June 2009 County Planning Commission hearing to review this project is now scheduled.

Case #2: A residence, classified as single-family, housing 20+ unrelated individuals, advertises room and board for rent. Located near the City of Morro Bay, with a property tax-exempt status of “welfare / religious,” it has for many years failed to comply with numerous county building and safety codes. The issues in this case have included unpermitted property usage, unpermitted septic systems and leach fields, unpermitted buildings and electrical code violations. A well documented volume of Building Department and Code Enforcement Division actions over twenty-five years was submitted to the Grand Jury. Amongst recent violations was

the illegal installation of an unpermitted septic leach field which intruded into the legal boundaries of an adjacent private water well which has now been rectified.

The ongoing historic pattern of code and building violations lasting decades and a lack of decisive enforcement actions with this property has fostered a documented atmosphere of contention in the local neighborhood. The Department of Planning and Building records contain expired and unenforced building department plans, permits and inspection reports, dating back to 1973. This, along with lost or misplaced documents would appear to indicate inadequate attention to this case. In fact, according to a Department of Planning and Building memo to the Grand Jury dated 03/06/09, the large main living structure at this facility has existed for over 30 years without ever having received a final building clearance. Currently, efforts are now underway through the Department of Planning and Building to rectify past expired permits and code violations and to bring this property up to full building code standards.

Case #3: A privately run homeless shelter and recovery facility, adjacent to the City of San Luis Obispo was scrutinized as to code enforcement actions. During shelter personnel testimony, charges of harassment and callousness toward the homeless were heard under oath. In addition, charges of hypocrisy were leveled against San Luis Obispo County for knowingly using the facility for the placement of difficult homeless persons.

Alternatively, equally vehement testimony was heard from neighbors who spoke to a lack of diligence on the part of the Code Enforcement Division over the past many years. The current County Abatement Orders for this property, issued in 2008, involving the illegal conversion of a two story barn to living quarters without a permit, unpermitted occupancy of mobile homes, unpermitted occupancy of recreational vehicles, excessive vehicle storage and sub-standard electrical and plumbing work reads almost verbatim to the previous County Abatement Orders from three years past (2005). The conclusion section, of the current county abatement order against this property reads in part, “these continuing violations have subjected unsuspecting tenants to unsafe conditions and neighboring residents, to a serious and chronic blight condition that has existed for years.” Currently, the County Supervisors, at the request of the Planning and

Building Department, have issued new (2009) abatement orders. Litigation is ongoing. In all, a long running, time consuming, expensive and frustrating experience for all concerned.

OBSERVATIONS

- A. Exacting and timely code enforcement is a tool used by the county to ensure the quality of life for all its citizens under the law. Delayed county code enforcement may enhance existing frustration and disharmony in the surrounding neighborhood.
- B. A pattern of county building and safety code enforcement, delayed beyond a reasonable time frame, was observed in relation to two of the cases described in this report. The willingness of the Code Enforcement Division and the Department of Planning and Building to act in a timely and decisive fashion was questionable.

FINDINGS

- 1. The County Code Enforcement Division of the Planning and Building Department handles hundreds of cases a year. The vast majority of these are resolved in a fair and timely fashion by a dedicated and professional staff. The three subjects described in this report evidently represent unique code enforcement cases which have festered over time.
- 2. The County Code Enforcement Division and the Department of Planning and Building have been dilatory in enforcing the county building and safety codes when dealing with cases #2 and #3 of this report.
- 3. According to Department of Planning and Building correspondence to the Grand Jury, three areas of service improvement have been identified: A) Building Inspection record keeping B) Code Enforcement personnel training with an emphasis on implementation and neutrality and C) Public outreach relative to county rules, regulations and policies.

RECOMMENDATIONS

1. The Director of the County Planning and Building Department should provide increased review and oversight of the Code Enforcement Division to insure prompt and consistent attention to difficult code enforcement cases.
2. As recommended by the County Counsel and noted in a memo to the Grand Jury from the Department of Planning and Building, “Homeless shelters, residential recovery facilities, and group homes, a category of housing currently not specifically addressed by county land use regulations, be considered for inclusion into the County Land Use Ordinance.” The Grand Jury strongly supports this effort.
3. The three areas for service improvement identified by the management team of the Department of Planning and Building in Finding: #3 be implemented.

REQUIRED RESPONSES

The Director of the San Luis Obispo Department of Planning and Building and the Board of Supervisors should respond to Findings and Recommendations: # 1, 2 and 3.

The responses from the Department of Planning and Building shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by August 20, 2009. Please provide a copy of all responses to the Grand Jury as well.

The response from the San Luis County Board of Supervisors shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by September 19, 2009. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Martin Tangeman Superior Court of California 1035 Palm, Room 385 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403