



Community and Economic Development

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June 28, 2018

Presiding Judge, Madera County Grand Jury
Madera County Superior Court
200 S. G Street
Madera, CA 93637

Subject: Response to the 2017/18 Grand Jury Report entitled "Madera County Code Enforcement Takes Action".

Dear Honorable Presiding Judge:

Pursuant to the California Penal Code 933.05, this letter addresses the findings and recommendations in above-referenced report which address subjects under control of the Madera County Community and Economic Development Planning Division.

The following are the Grand Jury's findings and recommendations and the Community and Economic Development Planning Division responses:

FINDINGS:

Finding 1:

The Code Enforcement team is dedicated and hardworking.

Response:

Respondent agrees with the finding.

Finding 2:

Current Code Enforcement staffing does not allow sufficient time for investigations beyond those which are complaint-driven, and many potential code violations are not investigated.

Response:

It has been a department policy to initiate an investigation in response to a citizen complaint or in conjunction with another department unless there is a health or safety issue.

Finding 3:

Assistance with clerical tasks, including collecting and monitoring penalty payments, would provide CE officers with more time for enforcement activities.

Response:

Extra help staff has been approved in the 2018/19 budget to assist with clerical tasks, including collecting and monitoring penalty payments.

Finding 4:

The selection of hearing officers for CE administrative hearings does not comply with Madera County Code §8.01.090-Hearing Officer.

Response:

Respondent disagrees with the finding. The Community and Economic Development Planning Division has had an agreement with current Administrative Hearing Officer for his services for numerous years. Madera County Code § 8.01.090 does not require that the agreement be of any particular degree of formality, or that it contain any specific terms.

Finding 5:

There has been inconsistency in administrative hearing findings where similar sets of facts exist.

Response:

Respondent disagrees with the finding. The Administrative Hearing Officer's findings are regularly consistent among cases with similar facts. The Grand Jury's Report posits a single example of two cases, both in which the absentee property owners claimed to have no knowledge of illegal marijuana cultivation on the property, yet the fines were upheld in one case and not the other. The example posited omits any facts as to what, if any, efforts the respective property owners made to periodically inspect the property, to check the background of potential lessees before leasing, or take any other reasonable measure to ensure illegal activities are not occurring on the property.

Where such measures have been taken by absentee property owners, the Administrative Hearing Officer's decisions consistently find that the property owners took all reasonable efforts available to comply with the County Code, and should therefore not be held liable for his/her tenant's violations. Where the property owner has failed to inspect the property for months or years (as is often the case) and has taken no other measures to ensure unlawful activity is not occurring on the property, the Hearing Officer's decisions consistently uphold the fines against the property owner.

Finding 6:

There has been inconsistency in the adjustments of fines and administration of penalty payments.

Response:

Respondent disagrees with the finding. The Grand Jury's Report contains no facts or examples indicating inconsistent adjustment of fines or penalties. To the contrary, the Report itself indicates that when a fine is adjusted, it is usually reduced to ten percent (10%) of the total potential liability amount.

RECOMMENDATIONS:

Recommendation 1:

The BOS authorize and budget for additional Code Enforcement Officer Positions in the 2018/19 fiscal year.

Response:

The 2018/19 budget includes 3 full time Code Enforcement Officers and 1 full time Supervising Code Enforcement Officer. Additionally, there is a full time extra help Code Enforcement Officer. In the 2017/18 fiscal year the extra help Code Enforcement Officer position was only filled part time. A full time extra help staff member will also be utilized for clerical tasks which will allow the Code Enforcement Officers to dedicate more time code violations and enforcement activities.

Recommendation 2:

Code Enforcement Officers be provided with clerical assistance beginning with the 2018/19 fiscal year.

Response:

The 2018/19 budget includes an extra help staff position to provide clerical support to the Code Enforcement Officers.

Recommendation 3:

The Director of CED immediately comply with Madera County Code §8.01.090 – Hearing officer.

Response:

CED believes that it is currently in compliance with Madera County Code §8.01.090. However, the Director of CED, in consultation with County Counsel's office, is currently reviewing the Division's administrative hearing procedures, and based on that analysis will determine what, if any, changes to staffing of the Administrative Hearing Officer position need to be made.

Recommendation 4:

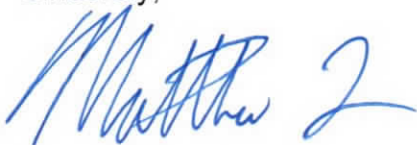
By September 1, 2018, CED shall develop written policies and procedures for the assessment and payment of fines for administrative citations.

Response:

The Community and Economic Development Planning Division is currently in the process of reviewing our written policies to determine if guidelines for penalty payment adjustments and time payment plans are appropriate and necessary. This review and any necessary updates are expected to be completed by September 1, 2018.

I appreciate the opportunity to respond to the findings and recommendations of the Grand Jury and acknowledge their effort and time spend on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Matthew 2".

Matthew Treber
Director of Community and Economic Development

Cc: County Counsel
Board of Supervisors