



**ADMINISTRATIVE OFFICE**  
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District 4  
TOM WHEELER  
District 5

July 24, 2018

The Honorable Dale Blea  
Supervising Judge of the 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."**

Honorable Judge Blea:

Pursuant to the California Penal Code 933.05, the Madera County Board of Supervisors submits this response to the findings and recommendations in the 2017-18 Madera County Grand Jury report entitled "**Madera County Code Enforcement Takes Action.**" See Attachment #1.

The following are the Grand Jury's findings and recommendations and the Board of Supervisors' responses:

**Finding 1:**

The Code Enforcement team is dedicated and hardworking

**Response**

Respondent agrees with the finding per California Penal Code 933.05 (a) (1).

**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**

Respondent partially disagrees with the finding per California Penal Code 933.05 (a) (2). "Complaint-driven" investigations are a matter of department policy. Investigations are initiated only in response to a 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 Code Enforcement officers with more time for enforcement activities.

Response

Respondent agrees with the finding per California Penal Code 933.05 (a) (1).

Finding 4:

The selection of hearing officers for Code Enforcement administrative hearings does not comply with Madera County Code Sec. 8.01.090 – Hearing officer.

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*“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.”*

The response of the Director of Community and Economic Development to the above Finding is considered appropriate and is submitted as the Board of Supervisors’ response.

Finding 5:

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

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*“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.”*

The response of the Director of Community and Economic Development to the above Finding is considered appropriate and is submitted as the Board of Supervisors’ response.

Finding 6:

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

Response

Respondent disagrees with the finding per California Penal Code 933.05 (a) (2). Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*“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.”*

The response of the Director of Community and Economic Development to the above Finding is considered appropriate and is submitted as the Board of Supervisors’ response.

Recommendation 1:

The BoS authorize and budget for additional Code Enforcement Officer positions in the 2018-19 fiscal year.

Response

The recommendation has been implemented. Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*“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.”*

The response of the Director of Community and Economic Development to the above recommendation is considered appropriate and is submitted as the Board of Supervisors’ response.

Recommendation 2:

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

Response

The recommendation has been implemented. The recently adopted 2018-19 budget includes an extra help staff position to provide clerical support to the Code Enforcement Officers.

Recommendation 3:

The Director of Community and Economic Development immediately comply with Madera County Code Sec. 8.01.090

Response

The recommendation requires further analysis. Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*“CED believes that it is currently in compliance with Madera County Code 58.01.090. 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."*

The response of the Director of Community and Economic Development to the above recommendation is considered appropriate and is submitted as the Board of Supervisors' response.

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 recommendation has not yet been implemented, but will be implemented in the future. Under separate cover, the Director of Community and Economic Development has responded to this finding and stated:

*"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."*

The response of the Director of Community and Economic Development to the above recommendation is considered appropriate and is submitted as the Board of Supervisors' response.

The Board acknowledges the Grand Jury's review and time involved in this matter, and appreciates the opportunity to respond to the findings and recommendations.

Sincerely,



Tom Wheeler  
Chairman of the Board of Supervisors