

CITY OF MOORPARK PRACTICES OF CODE ENFORCEMENT AND BUILDING AND SAFETY

Background

Multiple complaints were received by the Ventura County Grand Jury regarding the practices and procedures used by the Code Enforcement and the Building and Safety Departments of the City of Moorpark.

Methodology

The Grand Jury examined the code enforcement procedures and practices of the ten cities and the County. A questionnaire was sent to the cities and the County requesting relevant information. Several ride-along trips with various city enforcement officers were made by Grand Jury members in order to acquaint the members with the methods used by individual code enforcement personnel in applying their particular city's rules and procedures. In the light of all the information received, the Jury then looked at the City of Moorpark in more detail. Visits were made to the City of Moorpark where inquiries were directed to functionaries of the City of Moorpark and specific documentation was requested and examined. Documents were obtained from the City of Moorpark Building and Safety Department and the Planning Department in order to see the correlation to the fees being charged various complainants. They were compared to County Planning and Building/Safety costs. Samples of letter notice warnings were also obtained. A review was made with respect to these specific practices in other cities. The process of notification of code violation and right of appeal in Moorpark was the subject of particular attention.

While accompanying the sole City of Moorpark Code Enforcement officer on a ride along, all areas within his area of jurisdiction were observed.

Findings

- F-1. In the different cities, code enforcement personnel reported to different departments. See, Table 1.
- F-2. Responses received from the cities indicated that some did not track the data requested and that there were no systems in place from which to supply the data requested.
- F-3. Of the information received from the cities, a sample of comparable information is reflected in Table 2.
- F-4. Some Enforcement Personnel reported to several different departments within the particular city.
- F-5. City enforcement officers generally attempt to clear violations by a phone call or a visit but those attempts failing, a notice warning letter will often be written.

- F-6. In notice warning letters, some cities supply detailed instructions on how to appeal the indicated violation though in some cities they do not give such instructions until legal action is undertaken.
- F-7. Most reported or discovered, violations occur because the violators are not familiar with code requirements.
- F-8. When documentation was requested from Moorpark Code Enforcement that would explain the public's right to appeal violation notices and how to accomplish such an appeal, no satisfactory response was forthcoming.
- F-9. In response to the Jury's query on code violation appellate rights and procedures, the Jury received copies of various sections and pages from Moorpark Code Enforcement that were identified as relevant material from the Moorpark Municipal Code. It was not clear from this material what a cited violator's appellate rights were.
- F-10. Of the Municipal Code documents furnished the Jury, only a section of the code that covered The Federal Water Pollution Act indicated, "that each order shall state that the recipient has a right to appeal."
- F-11. On further inquiry, City of Moorpark personnel were unable to further detail the requested appellate rights information and reference was made to the Municipal Code on the Internet.
- F-12. A search of the Internet established that though a set of the Municipal Codes appeared to be available on the Internet, downloading revealed that the documents provided the Jury in the past was not in the Internet Municipal Code nor did the Internet Municipal Code appear to be complete.
- F-13. Copies obtained of typical letters sent by Moorpark Code Enforcement to violators revealed, with one exception, that none contained meaningful appellate information.
- F-14. A visit to the Moorpark Building and Safety Department disclosed that though pamphlets describing code enforcement were available at their location, a similar visit to City Hall disclosed that personnel there were not certain of the availability of information explaining code enforcement and that the rack containing this type information was fairly empty. City Hall personnel stated, "Things were being redone."
- F-15. In many cities within the County, copies of the municipal codes were readily available for the general public at either the relevant city hall or the Building and Safety department. This was not the case in Moorpark.
- F-16. Moorpark Code Enforcement provided the Jury a "Board of Appeals Application for Hearing" and, attached to it, a section 501, chapter 5, "appeals," purportedly from the Moorpark Municipal Code. This section, apparently taken from a 1997 "Abatement of Dangerous Buildings" section indicated 30 days as the time for appeal, and refers to section 401.3 of the code. A search for relevant section 4 of the code reviewed on the Internet revealed a blank page indicating that it is reserved.
- F-17. A copy of Moorpark's Building and Safety "Building and Permit Fees," with many pencil changes within the document, was obtained.

- F-18. The “Building and Permit Fees” document provided to the Jury did not explain the penciled changes or contain annotations indicating City Council action approving such changes.
- F-19. A comparison between fees indicated on documents provided the Jury to the fees charged to complainants was not possible because in most cases the fees were based on the “official’s” subjective estimates of construction costs, or his or her estimate of the cost of inspection and plan review, or in some cases fees were negotiated.
- F-20. Some of the obtained documents reflected estimated costs for investigations and “meetings” time.
- F-21. Review of some documents provided indicated no fee listing for such items as grading plan checks, improvement plan checks and geotechnical report review, grading inspection or improvement inspection though such fees are levied.
- F-22. Attached to some of the documents received were pages identified as “clearances and approvals,” but they were without any indication as to whether they were approved by the city and no fees were listed.
- F-23. An exhibit obtained by the Jury, titled “City of Moorpark Subdivision Final Processing Fee Schedule” indicated that homeowners are being charged the same fees as are being charged major sub division developers, i.e., these gross fees are being charged to individual homeowners when improving their lots/homes etc.
- F-24. The California Government Code at section 6253 (b), a section of the California Public Records Act, states, “(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.” (Emphasis supplied)
- F-25. The California Government Code at section 6253 (d), further states, “(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”
- F-26. Citizens, when requesting copies of drawings are being charged exorbitant, unpublished hourly rates to have the documents located within the department and are also being subjected to lengthy delays in receiving the requested drawings for duplication.

Conclusions

- C-1. In general, cities within the County had code enforcement programs that were operated for the benefit of their citizens. (F-5, F-6, F-7)
- C-2. In most cases the code enforcement officers were knowledgeable and competent in their function. (F-5, F-6, F-7)
- C-3. In most cases code enforcement officers are doing what they can under the restrictions and limitations of their resources. (F-5, F-6, F-7)

- C-4. There are areas where action can and should be taken by the cities to improve the public's perception of their code enforcement efforts. (F-9, F-10, F-11, F-12, F-14, F-15)
- C-5. Current copies of the City of Moorpark Municipal Codes were not readily available for general public review at city locations. (F-8, F-9, F-11, F-15)
- C-6. Homeowners in the City of Moorpark were being charged fees based upon a fee schedule, which is also used for subdivision final processing. This fee appears to be excessive for a homeowner. (F-17, F-18, F-19, F-20, F-21)
- C-7. Because each city sets its own "price list," a direct comparison between cities cannot be made.
- C-8. City of Moorpark, particularly Moorpark Building and Safety Engineering Department, regularly and repeatedly failed to adhere to the mandate of the California Public Records Act with respect to timeliness of production and fees charged. Documentation, which indicates this, has been provided to the committee. (F-24, F-25, F-26)
- C-9. The City of Moorpark acts arbitrarily in its fee charging procedures placing unreasonable reliance on sometimes exaggerated, unpredictable and capricious subjective estimates of costs by individual personnel. (F-26)
- C-10. The City of Moorpark acts arbitrarily in assessing unjustly high and arbitrary fees on its citizens. (F-26)

Recommendation

- R-1. That all cities establish programs to gather readily available code enforcement data in order to make possible their evaluation of the effectiveness of their enforcement programs *vis a vis* the programs of other comparable cities.
- R-2. That in all cases the first written notice of violation contain complete and understandable information with respect to the appellate rights of the alleged violator or a published pamphlet containing that information.
- R-3. That the "information" racks at Moorpark City Hall and Building and Safety be kept up to date.
- R-4. That copies of the Moorpark Municipal code be made available at the City Hall counter and the Building and Safety Department for necessary public review.
- R-5. That the Internet Moorpark Municipal Code be kept up to date.
- R-6. That an index of sections and chapters be created for the Internet version of the Moorpark Municipal Code in order to facilitate the public's use of that information.
- R-7. That the Moorpark Municipal Code be reviewed with a view to replacing the present varying appeals time limitations with a uniform time limit for appeals. Some sections currently permit 10 days some, some 15 days, and some 30days.
- R-8. If Moorpark Code Enforcement is using the form "Board of Appeals Application for Hearing", the references to the Municipal Code should be corrected to agree with the current code.
- R-9. That the Moorpark Building and Permit fees of the Building and Safety Department be thoroughly reviewed and revised so that they present to the

public a complete, clear, consistent, fair, reasonable and obtainable schedule for development and improvement within the City of Moorpark.

- R-10. That upon the review and revision of the Moorpark Building and Permit fees of the Building and Safety Department, those building and permit fees be presented to the City Council for approval in a public hearing.
- R-11. The City of Moorpark immediately review and comply with the California Public Records Act.
- R-12. That the City of Moorpark require that all department directors brief their personnel on the requirements of the California Public Records Act.
- R-13. The City of Moorpark perform an audit of past excessive charges and return such fees to the overcharged citizens.

Responses Required

Moorpark City Manager (R-1 thru R-9, R-11, R-13)

Moorpark City Council (R-9 thru R-12)

TABLE 1
CITY/COUNTY DEPARTMENTS - CODE ENFORCEMENT
(Responses received from a Grand Jury Query)

| | |
|----------------|----------------------------------|
| Camarillo | Community Development Department |
| Fillmore | Community Development Department |
| Moorpark | Community Development Department |
| Oxnard | Police Department |
| Port Hueneme | Community Development Department |
| Santa Paula | Building and Safety Department |
| Simi Valley | Community Services Department |
| Thousand Oaks | Community Development Department |
| Ventura | Fire Department |
| Ventura County | Planning Division |

TABLE 2
CODE ENFORCEMENT STATISTICS

| <i>Quantity Number</i> | <i>City</i> | <i>Population</i> | <i>Fines Levied (\$)</i> | <i>Number of Officers</i> | <i>Average Written Per Officer</i> |
|------------------------|----------------|-------------------|--------------------------|---------------------------|------------------------------------|
| 2520 | Camarillo | 6,0374 | 5,250 | 4 | 630 |
| 43 | Fillmore | 4,001 | 0 | 2 part time | 21 |
| 485 | Moorpark | 33,000 | 2,134 | 1 | 485 |
| 7107 | Oxnard | 182,027 | 39,413 | 9 | 789 |
| 634 | Port Hueneme | 22,000 | 0 | 1 | 634 |
| 232 | Santa Paula | 28,732 | 20,165 | 2.4 | 96 |
| 3417 | Simi Valley | 116,048 | 6,816 | 7 | 488 |
| 1300 | Thousand Oaks | 122,000 | 9,029 | 6 | 216 |
| 1744 | Ventura | 100,916 | 31,646 | 4.5 | 387 |
| 1325 | Ventura County | 93,790 | 25,000 | 3 | 441 |