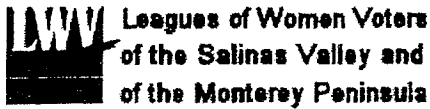


Attachment C
Correspondence

Master Fee Resolution
REF130021

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July 9, 2012

Dave Potter, Chair
Monterey County Board of Supervisors
168 W. Alisal St., 1st Floor
Salinas, CA 93901

SUBJECT: AMENDMENTS TO THE APPEAL FEE WATER PROCEDURES (ITEM 11.1)
AND DENIAL OF RICHARDSON APPEAL (ITEM 11.2)

Dear Supervisor Potter and Members of the Board:

Amendments to Fee Waiver Procedures

The LWV of the Monterey Peninsula and the LWV of Salinas Valley have previously requested the Board to reconsider the cost of appealing land use entitlement decisions. As noted in earlier letters, the current fee structure is prohibitive, making it difficult for many non-profit organizations and non-applicants to participate at all stages of the planning process or exhaust all decision-making avenues.

The proposed amendments to the Fee Waiver procedure clarifies the "appropriate authority" to hear an appeal and adds the following criteria for determining evidence in support of a fee waiver request:

...the appellant is unable to afford the appeal fee due to appellant's financial condition, provided that the appellant provides evidence in support of the fee waiver request such as evidence demonstrating that appellant would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632 because of his or her financial condition.

While the added criterion clarifies the type of evidence needed to demonstrate an inability to afford the fee, the amendments fail to address the fundamental issue of a fee that is so prohibitive that it undermines a citizen's right to due process. In California, Monterey County's appeal fees are among the highest. A number of other jurisdictions have made the distinction between an appeal by an applicant (who stands to profit from a decision) and a non-applicant representing the public interest. For example, LA County charges \$6768 to the applicant but only \$789 for a non-applicant.

The County has said it bases the appeals fee on the time required by staff to process an appeal,

although we have not seen documentation that itemizes this approach. This approach is the same used to establish fees for planning services, e.g., obtaining land use entitlements. We do not consider appealing a decision of the Zoning Administrator or the Planning Commission to be a service. Rather, it is a fundamental right that should not be hindered by prohibitive fees.

In February 2012, the Leagues supported a proposal by Jane Haines and the Ventana Chapter of the Sierra Club to reduce the fee to an amount affordable to a median-income household in Monterey County. This approach would eliminate the intrusive process of documenting an appellant's inability to pay the fee and would put all appellants on a fair and equal footing. Consideration of this proposal was postponed to allow the matter to be addressed as part of the upcoming budget. We look forward to that discussion and assume that the proposed amendments are not meant to substitute for a thorough review of the issue.

Richardson's Request for a Fee Waiver

The Richardson request for a fee waiver for an appeal from a Planning Commission approval of an application by California American Water Company for a Combined Development Permit exemplifies some of our concerns. The appeal is by party that does not stand to profit from the decision. Additionally, the current fee waiver process as identified in the proposed resolution to amend the procedure is unclear and allows for arbitrary decisions. Even though the applicants provided a written statement regarding their current financial situation, the staff report states, "Appellants have failed to provide substantial evidence of their inability to afford the appeal fee." The report further concludes that since Mr. Richardson is a dentist, he can afford the appeal fee. A review of the existing Fee Waiver Request form (attached) simply requests justification for a fee waiver; it provides no criteria or guidelines regarding the type of information to be provided. Citizens should not be subjected to a degrading and unfair procedure to exercise their fundamental right to petition their government and participate in the planning process.

Until the matter is finally resolved, all appeal fee waiver requests from non-applicants should be approved.

Thank you for your consideration.

Sincerely,

Beverly Bean
President, LWV of the Monterey Peninsula

Lynn Santos
President, LWV of the Salinas Valley

7/10/12



Post Office Box 1876, Salinas, CA 93902
Email: LandWatch@mclw.org
Website: www.landwatch.org
Telephone: 831-759-2824
FAX: 831-759-2825

July 10, 2012

Dave Potter
Chair, Monterey County Board of Supervisors
168 Alisal St., 1st Floor
Salinas, CA 93901

SUBJECT: RESOLUTION AMENDING THE MONTEREY COUNTY FEE RESOLUTION TO AUGMENT AND CLARIFY FEE WAIVER PROCEDURES (ITEM 11.1)

Dear Supervisor Potter and Members of the Board of Supervisors:

LandWatch has reviewed the proposed changes to clarify the fee waiver procedures. While we support changes that make the procedure clearer and less arbitrary, we continue to oppose the current prohibitive fee which amounts to a denial of our fundamental right to petition our government.

The proposed amendments provide criteria about evidence needed to support a fee waiver request such a qualifying for a waiver of court fees and costs provided under California Government Code section 68632:

- 68632. Permission to proceed without paying court fees and costs because of an applicant's financial condition shall be granted initially to all of the following persons:
 - (a) A person who is receiving public benefits under one or more of the following programs:
 - (1) Supplemental Security Income (SSI) and State Supplementary Payment (SSP) (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).
 - (2) California Work Opportunity and Responsibility to Kids Act (CalWORKs) (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program (Section 10553.25 of the Welfare and Institutions Code).
 - (3) Food Stamps (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code) or the California Food Assistance Program (Chapter 10.1 (commencing with Section 18930) of Part 6 of Division 9 of the Welfare and Institutions Code).
 - (4) County Relief, General Relief (GR), or General Assistance (GA) (Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code).
 - (5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code).

(6) In-Home Supportive Services (IHSS) (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(b) A person whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code.

(c) A person who, as individually determined by the court, cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family. Only if a trial court finds that an applicant under this subdivision can pay a portion of court fees, or can pay court fees over a period of time, or under some other equitable arrangement, without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family, the court may grant a partial initial fee waiver using the notice and hearing procedures set forth in paragraph (5) of subdivision (e) of Section 68634. "Common necessities of life," as used in this article, shall be interpreted consistently with the use of that term in paragraph (1) of subdivision (c) of Section 706.051 of the Code of Civil Procedure, as that paragraph read prior to January 1, 2012.

While the added criteria clarify the financial condition of a person seeking relief, it does not address the documentation needed to demonstrate an inability to afford the fee. Instead of simplifying the fee waiver process by reducing the fee to a level affordable to most Monterey County residents, the amendments create a burdensome and complicated bureaucratic process. More importantly, it ignores the prohibitive nature of the fee for non-profit organizations and all but the most wealthy individuals.

We continue to urge you to re-evaluate the appeal fee and to either exempt all appellants other than applicants from the fee or reduce the fee to an amount affordable to a median-income household in Monterey County.

Sincerely,



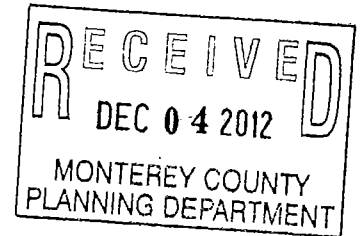
Amy L. White
Executive Director

JANE HAINES

601 OCEAN VIEW BOULEVARD APT. 1 PACIFIC GROVE, CALIFORNIA 93950

December 3, 2012

Mike Novo, Planning Director
Laura Lawrence, Planning Services Manager
Wendy Strimling, Senior Deputy County Counsel
Monterey County Offices
168 West Alisal
Salinas, CA 93901



Re: Research regarding California land use appeals

Dear Mike, Laura and Wendy:

I am writing to provide you my recent research regarding California land use appeal fees.

During November, I researched the land use appeal fees for all 58 California counties and inserted 55 of them into the spreadsheet that is **Attachment A**. Monterey County's fee of \$5,140 is the highest in California; the average appeal fee is \$769, more than six times lower than Monterey County's. Three counties -- Alpine, Modoc and Sutter -- charge varying appeal fee amounts because their fees depend on project processing costs. Thus, I based the average on the remaining 55 counties. Later this week I will email you a copy of Attachment A so that you will have an electronic version which can be used to easily link to any fee schedule which might interest you.

My hope is that Monterey County will switch to an on-the-record appeal procedure similar to Napa County's. However, if you decide instead to retain de novo appeal hearings, you might want to look at Section 18.10.340 of the Santa Cruz County Code at **Attachment B**. It provides for a jurisdiction hearing before the Board of Supervisors for the purpose of deciding whether the Board will accept or reject jurisdiction over the appeal. The jurisdiction hearing is based on an on-the-record review (*not de novo*) of Planning Commission proceedings. If the Board rejects jurisdiction, the appellant would have exhausted administrative remedies and would therefore not be barred by the exhaustion doctrine from litigating her grievances in court. Alternatively, if the Board accepts jurisdiction, there are options for either a de novo hearing or an on-the-record hearing. Santa Cruz County's appeal fee is \$524. Perhaps its weeding out of meritless appeals saves considerable staff time. I talked with a Santa Cruz County planner about the process, but I didn't get answers to my questions.

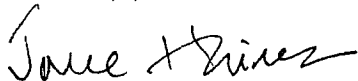
Another variation you may want to consider is used by San Diego, Ventura and Sonoma Counties. Those counties charge a non-applicant appellant a base appeal fee, then require the applicant to pay the remainder of the county's cost to process the appeal. The base appeal fee for San Diego County is \$500 plus the *applicant* must deposit \$825, for Ventura County the base appeal fee is \$2,000 with the applicant paying the remainder of the county's costs, and for Sonoma County the base appeal fee is \$1,079. The relevant pages of the fee schedules for those three counties are **Attachment C**.

Note: According to quickfacts.census.gov/qfd/states/06/06097, the annual median per capita income in Sonoma and Ventura Counties is roughly \$7,000 higher than the annual median per capita income in Monterey County. Thus, those counties' high appeal fees are more likely to be reasonably affordable than the same fee amounts would be in Monterey County.

The 7/26/12 Herald article about the FORA Board unanimously voting to lower its appeal fee is **Attachment D**.

Finally, since I cannot remind Monterey County too often that its current land use appeal fee of \$5,146 appears to violate the Constitutional rights of Monterey County citizens, the ACLU's 3/12/12 letter to Dr. Bauman is **Attachment E**. The letter's author, Michelle Welsh, teaches Constitutional Law at Monterey College of Law.

Sincerely yours,



Jane Haines

copy: Benny Young, Director of RMA

ATTACHMENT **A**

County	Appeal fee	Additional	Website address or phone number
Alameda	\$250		https://www.acgov.org/cda/planning/ordinance/documents/FeeSchedule.pdf
Alpine			(530) 649-1878
Amador	\$558		(209) 223-6380
Butte	\$50		http://www.buttecounty.net/~media/County%20Files/AdminOffice/Public%20Internet/News/Master%20Fee%20Schedule%20-%20Adopted%208-24-10%20Effective%2010-1-10.ashx
Calaveras	\$100		http://www.co.calaveras.ca.us/cc/Departments/PlanningDepartment/PlanningFees.aspx
Colusa	\$750		http://ca-colusacounty.civicplus.com/DocumentView.aspx?DID=286
Contra	\$125		http://www.co.contra-costa.ca.us/index.aspx?NID=623
Del Norte	\$688	Appeal fee for BOS hearing for appeal of 6 conditions	http://www.co.del-norte.ca.us/index.php?option=com_content&view=category&id=109&layout=blog&Itemid=128
El Dorado	\$200		http://www.co.el-dorado.ca.us/Government/Planning/Combined_Fees.aspx
Fresno	\$508		http://www.google.com/#hl=en&tbo=d&scient=psy-ab&q=fresno+county+fee+schedule&oq=fresno+county+fee+schedule&gs_l=hp.12..0i30j0i8j0i8i30i2.1003.8268.0.13065.26.26.0.0.0.0.241.3419.0j23j3.26.0.les%3B..0.0...1c.1.pVPzjhlRXiE&pbx=1&bav=on.2.or.r_gc.r_pw.r_cp.r_qf.&fp=65a6ecd9ee5d3679&bpcl=38093640&biw=1024&bih=764
Glenn	\$450		(530) 934-6540
Humboldt	\$750		http://co.humboldt.ca.us/planning/forms/pdf/fee%20schedule%20effective%20(rev%2010.30.12).pdf
Imperial	\$692		http://icpds.com/CMS/Media/building-fee-schedule-handout-.pdf
Inyo	\$300		(760) 878-0268
Kern	\$429		http://www.co.kern.ca.us/planning/pdfs/fee_schedule_2010.pdf
Kings	\$320		http://www.countyofkings.com/planning/Adopted%202010-11%20Fee%20Schedule%20updated%2011-16-11.pdf

County	Appeal fee	Additional	Website address or phone number
Lake	\$407	plus \$150 deposit & reporter cost	http://www.co.lake.ca.us/Assets/CDD/Planning/Planning+Fees.pdf?method=1
Lassen	\$159		(530) 251-8269
Los Angeles	\$817	Applicant fee is \$7,008; non-applicant is \$817	http://planning.lacounty.gov/assets/upl/general/fee_20120301.pdf
Madera	\$326		(559) 675-7821
Marin	\$770		http://www.co.marin.ca.us/depts/CD/Forms/Zoning_Application_Fees.pdf
Mariposa	\$970		http://www.mariposacounty.org/DocumentCenter/Home/View/7893
Mendocino	\$1,045		(707) 463-4281
Merced	\$675		http://www.co.merced.ca.us/documents/Planning_and_Community_Development/Permit%20Application%20Forms/2010%20Development%20Processing%20Fees%20FINAL%20092710.PDF
Modoc		Time and materials	http://www.ccpda.org/en/component/docman/doc_view/168-modoc-county-planning-fee-schedule-2011
Mono	\$495		(760) 932-5420
Monterey	\$5,146		http://www.co.monterey.ca.us/planning/fees/LandUseFees_070112.pdf
Napa	\$408		http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294972060
Nevada	\$1,342		http://www.mynevadacounty.com/nc/cda/planning/docs/Planning%20Dept%20Application%20Forms/2012-2013%20Planning%20Department%20Fee%20Schedule.pdf
Orange	\$500		http://www.ocplanning.net/Documents/pdf/AppealsPublicHandout.pdf
Placer	\$529		http://www.placer.ca.gov/Departments/CommunityDevelopment/Planning/~/_media/cdr/Planning/FeeSchedule/Fee%20Schedule%20Jul%202012.ashx
Plumas	\$770		(530) 283-7011

County	Appeal fee	Additional	Website address or phone number
Riverside	\$983		http://www.tlma.co.riverside.ca.us/planning/content/devproc/fee_schedules/rcpd_fees.html
Sacramento	\$5,195		http://www.msa2.saccounty.net/planning/Documents/08012011%20Planning%20Updated%20Consolidated%20Fee%20Schedule.pdf
San Benito	\$550		(831) 637-5313
San Bernardino	\$1,192		http://cms.sbcounty.gov/Portals/5/Planning/Planning%20Applications/Appeal.pdf
San Diego	\$500	\$500 is fee; additional is possible	http://www.sdcounty.ca.gov/pds/docs/369.pdf
San Francisco	\$521	Plus \$284 if tentative subdivision map included	(415) 554-5184
San Joaquin	\$648		(209) 468-3121
San Luis Obispo	\$850		http://www.slocounty.ca.gov/Assets/PL/environmental/Inland+Appeal+Form.pdf
San Mateo	\$451		http://www.co.sanmateo.ca.us/vgn/images/portal/cit_609/10073492fees.pdf
Santa Barbara	\$643		http://www.sbcountyplanning.org/pdf/fees/Land%20Development/Land%20Dev%20Fee%20Schedule%20CPI%20Adj%20effective%206-25-12.pdf
Santa Clara	\$1,359		http://www.sccgov.org/sites/planning/Permits%20-%20Development/Permits/Documents/Fees_Current.pdf
Santa Cruz	\$648		(831) 454-2130
Shasta	\$524.26		http://www.co.shasta.ca.us/Resource_Management/docs/planning_fees.sflb.ashx
Sierra	\$200		(530)289-3295
Siskiyou	\$1,050		http://www.co.siskiyou.ca.us/PHS/planning/docs/Fee%20Schedule/Application%20for%20Development%20%20Review%2007012012.pdf
Solano	\$150		http://www.co.solano.ca.us/civicax/filebank/blobdload.aspx?blobid=11342

County	Appeal fee	Additional	Website address or phone number
Sonoma	\$1,079	Applicant (only) can be charged additional	http://www.sonoma-county.org/prmd/fees/fee_5.pdf
Stanislaus	\$510		http://www.stancounty.com/planning/pl/misc/planning-fees.pdf
Sutter		At cost with a \$1,000 deposit	http://www.co.sutter.ca.us/pdf/cs/ps/Planning_and_Zoning_Fees_2008.pdf
Tehama	\$440		(530) 527-2200
Trinity	\$500		http://www.trinitycounty.org/Departments/Planning/PDF/Planning%20Department%20Fee%20Schedule.pdf
Tulare	\$300		http://www.co.tulare.ca.us/civica/filebank/blobdload.asp?BlobID=6258
Tuolumne	\$137		http://portal.co.tuolumne.ca.us/psp/ps/TUP_COMMUNITY_DEV/ENTP/c/TU_DEPT_MENU.TUOCM_HTML_COMP.GBL?action=U&CONTENT_PNM=EMPLOYEE&CATGID=1208
Ventura	\$2,000	Applicant (only) can be charged additional	http://www.ventura.org/rma/planning/pdf/fees/Planning-Fee-Sched-current.pdf
Yolo	\$816		http://www.yolocounty.org/Index.aspx?page=426
Yuba	\$522		http://www.co.yuba.ca.us/Departments/BOS/documents/ordinance/Title%202013%20June2512.pdf
Count	55		
Average	\$769		

ATTACHMENT **B**

18.10.340 Appeals to Board of Supervisors—From Level VI (PC).

(A) Who May Appeal. Any person whose interests are adversely affected by any act or determination of the Planning Commission, or by the Agricultural Policy Advisory Commission, acting pursuant to Chapter 16.50 SCCC, may appeal such act or determination to the Board of Supervisors; provided, however, that where the determination made by the Commission is given in the form of a recommendation or report addressed to the Board of Supervisors, no appeal may be taken, but any interested party shall be entitled to appear before the Board of Supervisors at the time of consideration of such recommendation or report and to be heard thereon. Appeals to the Board shall be taken by filing a written notice of appeals with the Clerk of the Board of Supervisors not later than the fourteenth calendar day (10 calendar days for tentative maps and 15 calendar days for time extensions of tentative maps) after the day on which the act or determination appealed from was made. The Clerk of the Board shall send notice of such appeal to the Planning Department within one day of the filing of the appeal.

(B) Procedure for Taking Jurisdiction.

(1) When a notice of appeal is properly filed, a consideration of whether the Board should take jurisdiction shall forthwith be scheduled on the next available agenda of the Board of Supervisors, except that appeals from actions taken on a tentative map by the Planning Commission shall be set for hearing as set forth in SCCC 14.01.312, et seq., of the County subdivision ordinance.

(2) Written notice of the time and place set for hearing the appeal shall be given by the Clerk to the appellant, the original applicant if he or she is not the appellant, and the Planning Department at least 10 calendar days prior to the date set for hearing. The notice provided to the appellant shall inform the appellant that the appellant shall be required to present evidence which, in his or her opinion, demonstrates that the grounds listed in subsection (C) of this section for the Board to take jurisdiction apply.

(3) The Planning Department shall transmit to the Board all records related to the appeal and shall furnish such other information relative to the proceedings as may be requested by the Board.

(C) ~~Grounds for the Board of Supervisors to Take Jurisdiction~~ The Board of Supervisors will not take jurisdiction of an appeal and grant further review of a matter unless the Board is convinced that there was an error or abuse of discretion on the part of the Commission, Zoning Administrator, or other officer; or that there was a lack of a fair and impartial hearing; or that the decision appealed from is not supported by the facts presented and considered at the time the decision appealed from was made; or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision appealed from was made; or that there is either error, abuse of discretion, or some other factor which renders the act done or determination made unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

(D) Decision to Take Jurisdiction.

(1) At the time the Board considers whether to take jurisdiction of the appeal, the Board may, by a motion passed by at least three votes, determine that the appellant has established sufficient grounds for the Board to take jurisdiction for further review, and may either grant a review limited to the record of the entire proceedings held before the Commission, Zoning Administrator, or other officer, or in the alternate, may elect to conduct the proceedings as if no other hearing had been held and thereby re-hear the matter de novo.

*Santa Cruz County Code
Section 18.10.340*

(2) In appropriate circumstances, without taking jurisdiction for further review, the Board may, by a majority vote, refer the matter back to the Planning Commission for reconsideration of new evidence or other considerations. In the event of such a referral, the Board may require a report back to the Board for review by the Board, or may provide that the Planning Commission's decision on reconsideration shall be final, subject to appeal to the Board (without fee by the previous appellant) as in the case of an original decision, at which time the Board shall decide whether to take jurisdiction for further review upon any such appeal.

(E) Determination of Appeal.

(1) If the Board, by a majority vote, determines to take jurisdiction for further review, the Planning Director or designee shall schedule a public hearing before the Board. The date of the scheduled hearing shall be no more than 60 calendar days following the decision to take jurisdiction. If no regular meeting of the Board of Supervisors is scheduled to occur within 60 calendar days after the decision to take jurisdiction, the scheduled hearing date shall be that of the next regular meeting of the Board of Supervisors. Written notice of the time and place set for hearing the appeal shall be given to the appellant—and to the original applicant, if he or she is not the appellant—at least 21 calendar days prior to the hearing. Public notice of the hearing shall be given in the same manner as required for the original action appealed from, except that no large sign or signs regarding the appeal hearing shall be required pursuant to SCCC 18.10.224, and no neighborhood meeting regarding the appeal hearing shall be required pursuant to SCCC 18.10.211.

(2) After the public hearing by the Board of Supervisors, whether based upon the previous hearing record or a de novo hearing, the Board may, after making the required findings, make any order it deems just and proper, including the granting of any permit or approval pursuant to the terms of this chapter.

(3) The Board shall have the power to continue any such matter, with the public hearing open or closed. Re-noticing shall not be required if the matter is continued to a specific date. In the event the Board is unable to reach a decision on the appeal, the matter may be continued one meeting at the request of the appellant, for a decision in conformance with this section. In the event that an agreement cannot be reached on either a continuance or a Board decision, the decision of the body appealed from shall become final, except in those cases where final action requires an ordinance adopted by the Board.

(F) Finality of Action. Decisions made by the Board of Supervisors are final, except in the case of appeals to the Coastal Commission (see SCCC 18.10.360). [Ord. 5119 § 51, 2012; Ord. 4500-C § 6, 1998; Ord. 4496-C § 106, 1998; Ord. 4463 § 3, 1997; Ord. 4243 § 26, 1993; Ord. 4075 § 8, 1990; Ord. 4044 § 2, 1990].

ATTACHMENT



CASE TYPE	PDS PLANNING		PDS ENVIRONMENTAL		DPW ^{1,2,7}		DPW INITIAL		DEH ¹ SEPTIC/WELL		DEH ¹ SEWER		DPR		SWMP	
	AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT	
Oversized Structure	\$1,910	(D)	\$630	(F)	\$795 (D)		\$692 (F)									
Recycling Collection Facility (small)	\$1,910	(D)	\$630	(F)	\$795 (D)		\$692 (F)									
Second Dwelling Unit	\$1,910	(D)	\$630	(F)	\$795 (D)		\$692 (F)									\$630 (D)
Small Winery	\$1,910	(D)	\$630	(F)	\$795 (D)		\$692 (F)									
Time Extension	\$580	(F)			\$795 (D)											
Wind Turbine, Medium	\$1,910	(D)	\$3,440	(D)	\$795 (D)		\$2,890 (D)									
AGRICULTURAL PRESERVES (V)																
Contracts	\$660	(D)	\$3,440	(D)												
Establishment/Disestablishment	\$1,700	(D)	\$3,440	(D)												
Notice of Non-Renewal																
ALCOHOLIC BEVERAGE LIC.																
Alcoholic Beverage License Application	\$950	(D)														
Appeal of Decision	\$750	(F)														
APPEALS																
of Administrative Decision	\$1,660	(D)			\$825 (D)											
of scoring for Environmental Consultant List	\$310	(D)														
To Planning Commission	\$750	(F)			\$1,315 (D)											
BOUNDARY ADJUSTMENTS (V)																
Standard Application, w/o CC (up to 4 lots)	\$1,230	(D)	\$630	(F)	\$1,260 (D)				See Note 5							
With Certificate of Compliance (up to 4 lots)	\$1,340	(D)	\$630	(F)	\$1,245 (D)				See Note 5							
CERTIFICATES OF COMPLIANCE (V)																
Standard Application, w/o B/A (Legal lot verification, up to 4 lots)	\$1,010	(D)			\$485 (D)				See Note 5							
Each lot over 4 lots	\$130	(D)			\$85 (D)				See Note 5							
Designated Remainder Parcel	\$1,010	(D)			\$1,245 (D)											
In Lieu of Tentative Map (TMC)	\$1,830	(D)	\$3,440	(D)	\$7,280 (D)		\$2,890 (D)									\$1,425 (D)
In lieu of Tentative Parcel Map (TPC)	\$1,830	(D)	\$3,440	(D)	\$2,365 (D)		\$2,890 (D)									\$630 (D)
Violation of Subdivision Ordinance (MSV)	\$4,620	(D)	\$3,440	(D)	\$3,995 (D)		\$2,890 (D)									
Non-Refundable Violation Fee	\$600	(F)														

San Diego County
www.sdcounty.ca.gov/pds/docs/369.pdf
(Note 10 on following page)

CASE TYPE	PDS PLANNING		PDS ENVIRONMENTAL		DPW 1,2,7	DPW INITIAL	DEH ¹ SEPTIC/WELL	DEH ¹ SEWER	DPR	SWMP
	AMOUNT	AMOUNT	AMOUNT	AMOUNT						
All Paper Sizes	.15 per page									
Zoning/Planning Overlays	\$2.10 per page									
Microfilm Copies	\$2.60 per page									
AUDIO TAPES										
Copies Transcription Certification	\$8.50 per tape + time/material									
Computer Disks	Time/Material									
Zoning History letter	\$200 (F)									
Rebuild letter	\$100 (F)									
PDS-	Planning & Development Services									
DPW-	Department of Public Works									
DEH-	Department of Environmental Health									
DPR-	Department of Parks and Recreation									
(D)-	Deposit, additional deposit may be required									
(F)-	Fee									
(V)-	Violation(s) requires additional fee - Code 2669									
Note 1:	DPW or DEH fees or deposits are collected for all projects that will be sent to DPW or DEH and may be waived by a DPW or DEH Project Manager if there is no DPW or DEH involvement. All DPW amounts are deposits for a specific task. Separate Deposit accounts are required for each task, but may be totaled and paid by a single check.									
Note 2:	If road location per Final Map or Parcel Map is changing or a new road easement is being proposed, project is sent to DPW.									
Note 4:	Collect previous CEQA action fee if a subdivision map created the open space. Please check APN assessor's book.									
Note 5:	DEH reviews the application and completes review prior to PDS submittal.									
Note 6:	Time and Materials only if Plans are prepared by California licensed landscape architect.									
Note 7:	DPW deposit will match fee for specific permit type being reviewed as part of Major Project Pre-Application Meeting. See DPW fee schedule for project type. DEH and DPR fees collected if DEH or DPR has been requested to attend the Major Pre-Application Meeting.									
Note 8:	Major Pre-Application Conferences involve all LUEG departments. Standard Pre-Application Conferences will be billed by DPR and DEH when they are asked to provide comments. A deposit is required for Initial Consultation Conferences if DEH and/or DPR attendance is requested.									
Note 9:	Submit Recycled Water Projects directly to DEH.									
Note 10:	A deposit will be required if the applicant is the appellant. Appeals filed by parties other than the applicant are subject to a non-refundable appeal fee. No charges against the applicant's project account will be made. However, appeal on projects filed by the applicant shall be subject to a fee of recovery. All related costs shall be charged to the applicant's project account. Fees are waived for appeals from a recognized Community Planning Group.									

San Diego County
Continued from preceding page

Appeals		
Appeals related to entitlements or Planning Director and Planning Commission determinations	\$2,000	Deposit/billing limit (staff processing time, mailings and public notice costs). No billing limit where the appeal is of a violation. If the appeal is filed by the applicant or applicant's representative, the applicant will be required to pay actual staff time and costs in excess of the \$2,000 appeal fee. If the appeal is filed by another party, the applicant will be required to pay actual staff time and costs in excess of the appeal fee up to a maximum of \$2,000.
If any appeal is fully upheld, all fees paid by the appellant shall be refunded. If the appeal is upheld in part, the decision-making body hearing the appeal shall determine at the time the decision is rendered what portion of the appeal charges should be refunded to the appellant.		
Coastal Appeals		
Coastal Appeals	\$0.00 or up to \$2,000	No fee if project is appealable to the Coastal Commission, unless the Coastal Commission approves an ordinance amendment authorizing a fee. Said fee would be a \$2,000 deposit/billing limit. No billing limit where the appeal is of a violation.
ENFORCEMENT OR COMPLIANCE RELATED ACTIONS		
Late Filing Fees		
Late Filing Fees	Up to \$1,000	An amount equal to the specified fee for each of the required entitlements but not to individually exceed \$1,000 (nonrefundable). See applicable Zoning Ordinance Sections. This fee will be collected by the Planning Division and forwarded to the appropriate division.
Abatement Releases		
Releases from Notice of Non-Compliance, Liens, and other recorded documents	\$200	(Nonrefundable) per document
Informal Office Hearing		
Informal Office Hearing	\$500	Deposit
Bond/Surety		
Compliance Review and Release	\$500	Deposit
Substitution/Transfer	\$200	Per financial instrument (nonrefundable)

PROJECT REVIEW APPLICATION FEE SCHEDULE

Adopted by Board of Supervisors Ordinance Nos. 5890, 5891 and 5979, Effective 07/01/12

Fee Item

C-ADA APPEALS

1011 To Board of Zoning Adjustments, Planning Commission or Board of Supervisors
 For all fee projects, Applicant billed all incurred fees exceeding initial Appeal Fee
 (Fee to Appellant) *At Cost to Applicant *At Cost – min 1,079.00

B-ACC ADMINISTRATIVE CERTIFICATE OF COMPLIANCE

1000 Level I (mapped legal description)..... min per lot 1,090.00
 1001 Level II *At Cost – min per lot 1,870.00
 1005 Ag Preserve / Williamson Act Contract Consistency Determination *At Cost – min 899.00
 0140 Technology Enhancement Fee – Permit Type III 48.00

C-AGP AGRICULTURAL AND TIMBER PRESERVE/WILLIAMSON ACT CONTRACT

1002 Ag Preserve/Williamson Act Contract Establishment/Replacement, Modification,
 Easement Exchange, Farmland Security Zone Contract, Land Conservation
 Plan Amendment, Cancellation..... *At Cost – min 3,392.00
 1003 Contract Non-Renewal (Phase-Out)..... 1,178.00
 1052 CEQA Exemption Determination 34.00
 1155 Associated Zone Change (to TP or WA) 1,721.00
 0140 Technology Enhancement Fee – Permit Type III 48.00

C-CMO CERTIFICATE OF MODIFICATION

1074 Certificate of Modification (Major Subdivision) 2,684.00
 1084 Certificate of Modification (Minor Subdivision) 1,955.00
 0332 Health Review – Certificate of Modification 251.00
 0121 Fire Safe Standards Review (\$173.00 per hour)..... two hour min 346.00
 0435 Planning Referrals to Sanitation 389.00
 0611 Planning Referrals to County Surveyor 176.00
 3802 Public Works Review 650.00
 0610 PRAC (Project Review Advisory Committee) Hearing 1,050.00
 0710 Drainage Review Referral Fee 505.00
 0730 Storm Water Pollution Prevention (NPDES) Planning Referrals to Drainage Review 786.00
 2120 Agricultural Commissioner Review 272.00
 0140 Technology Enhancement Fee – Permit Type III 48.00

Environmental Review Fees

1052 CEQA Exemption Determination 34.00
 1054 Referral Fee to Regional Archeology Lab (collect with base fee) 141.00
 1057 Environmental Review Committee (ERC) Review per hour 285.00
 1056 Peer Review of Technical Reports (Traffic, Geology, Hydrology, etc.) *At Cost – min 428.00
 1055 Level I (Negative Declaration – no technical reports)..... 2,889.00
 1053 Level II (Expanded Initial Study - Mitigated Neg Dec – w/tech repts) *At Cost – min 4,257.00
 1058 Level III (EIR Consultant with Staff review and processing) *At Cost – min 5,113.00

B-CPN COASTAL PERMIT – NO HEARING

1024 Coastal Permit Level I (with other approval or without Public Hearing) *At Cost – min 2,040.00
 For Residences, Do Not Apply Referral Fees

1005 Ag Preserve / Williamson Act Contract Consistency Determination *At Cost – min 899.00
 1026 Extension of Time 621.00
 0334 Health Review, Public Sewer and Public Water 189.00
 0337 Health Review, Well or Septic 1,597.00
 0121 Fire Safe Standards Review (\$173.00 per hour)..... two hour min 346.00
 3802 Public Works Review 650.00
 1052 CEQA Exemption Determination 34.00
 0140 Technology Enhancement Fee – Permit Type III 48.00

Sonoma County

ATTACHMENT **D**

FORA lowers its appeal fee by thousands

By VIRGINIA HENNESSEY
Herald Staff Writer

Appealing a land-use decision to the Fort Ord Reuse Authority just got a lot cheaper.

Responding to requests by the Sierra Club and other groups, the FORA board on Thursday voted 11-0 to reduce its appeal fee from \$5,040 to a formula that would leave it at about \$450. The board's vote also provides for a fee waiver for very low-income residents.

The appeal fee had equaled the county's since the 1998 settlement of a lawsuit against FORA by the Sierra Club. At the time, board member Jane Haines said Thursday, that fee was \$252. It has since skyrocketed to 20 times that amount.

The Sierra Club, American Civil Liberties Union, League of Women Voters and others are pressuring the county to reduce its fee, which they say denies the majority of Monterey County residents their constitutional right to government redress.

On Thursday, Haines praised FORA staff's cooperation in establishing a new fee formula. It takes the appeal fees of the agency's nine member jurisdictions, drops the highest and lowest, and then averages the remaining seven.

A staff report indicated the equation results in a \$737 appeal fee, and board members referred to it as the "737 approach" at Thursday's meeting. However, a survey

of the jurisdictions' current fees, many of which have been recently adjusted, shows it actually would be approximately \$446.

The board took up other thorny issues at Thursday's special meeting.

On a 9-2 vote, with Supervisor Jane Parker and Salinas City Councilwoman Jyl Lutes dissenting, it denied a claim by Keep Fort Ord Wild questioning numerous FORA expenditures, including reimbursements to the agency's executive officer Michael Houlemard.

Last month, the board voted to hire a forensic auditor to examine the questioned expenditures. On Thursday, it voted to ask that person to help develop a FORA expense-reimbursement policy.

Before adjourning into a closed session about litigation that includes a public-records lawsuit by Keep Fort Ord Wild, the board unanimously approved a records-retention policy and allocated \$15,000 for staff time to deal with an "unanticipated volume" of public records requests.

The board reversed course from an earlier meeting and rejected by an 8-3 vote a proposed budget for Marina Coast Water District that would have sharply increased rates and granted a 2 percent raise to its employees.

Virginia Hennessey can be reached at 753-6751 or vhennessey@montereyherald.com.

ATTACHMENT

E

ACLU



Monterey County Chapter
of the American Civil Liberties Union
of Northern California

P.O. Box 1112, Pacific Grove, CA 93950
www.acluMontereyCounty.org

March 12, 2012

Dr. Lew C. Bauman
Chief Administrative Office
Monterey County Administrative Offices
168 West Alisal St. 3d Floor
Salinas, CA 93901

Re: Monterey County Land Use Appeals Fees

Dear Dr. Bauman:

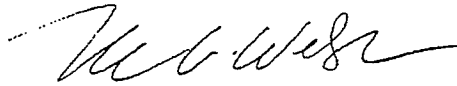
On behalf of the American Civil Liberties Union, Monterey County Chapter, I am authorized to write to you to express the concern of the ACLU that the high rate charged by the County of Monterey for land use appeal fees may violate the fundamental Constitutional right of all persons to access to the courts for redress of grievances. Exorbitant fees, or even ordinary fees not subject to any form of waiver for indigent litigants, may violate the United States and California Constitutions.

The United States Supreme Court in *Bounds v. Smith* 430 US 817 (1977) held that all persons have a "fundamental constitutional right of access to courts" under both the due process and equal protection clauses of the United States Constitution. This right dates back to the Magna Carta. *Griffin v. Illinois* 351 US 12 (1956). In the leading case of *Boddie v. Connecticut* 401 US 371 (1971) the Supreme Court struck down a court filing fee which prevented civil litigants from seeking relief that was only available through court action. The court in *Boddie* specifically held that the government's interests in allocation of scarce resources and prevention of frivolous litigation are rational state interests, but they are insufficient to override the interest of the appellants in having access to the only avenue open to them for redress.

It is our understanding that the remedy of an administrative appeal of a land use decision must be exhausted as a prerequisite to bringing a lawsuit in court. Therefore, the only avenue open to an appellant to litigate his or her objections to a land and use decision is precluded by an unreasonably high fee for exhausting the administrative appeal process.

For the reasons stated in this letter, and in other correspondence provided to representatives of Monterey County on the issue of land use appeal fees, the American Civil Liberties Union, Monterey County Chapter, requests that the County of Monterey reduce its fees for filing a land use appeal to an affordable level comparable to other counties, and also consider instituting a process for granting a waiver of appeal fees which preclude potential litigants from exercising their Constitutional right to seek redress from the government for their grievances.

Very truly yours,



Michelle A. Welsh
Chair Legal Committee
American Civil Liberties Union
Monterey County Chapter

MAW: rg.

Enclosures

cc: Mike Novo Planning Director, Monterey County