

EXHIBIT A

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

BUILDING SERVICES DEPARTMENT

Michael A. Rodriguez, C.B.O.
Chief Building Official

168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
(831) 755-5027
Fax: (831) 757-9516
www.co.monterey.ca.us/rma



INTEROFFICE MEMORANDUM

Date **September 17, 2012**

TO: Board of Supervisors

FROM: Mike Rodriguez, Chief Building Official
 Amy Feagans, Code Enforcement

RE: *Staff comments and recommendations on the consultant report:
Review of Code Enforcement Program and the Effectiveness of the
Administrative Law Judge Process in the Building Services Division
of the County of Monterey*

A handwritten signature in black ink, appearing to read "Mike Rodriguez".

Background

In September 2011, in response to Board Referral 2011.06, the Resource Management Agency contracted with CSG Consultants to review and provide analysis of the County's current Code Enforcement Program and specifically to provide recommendations on process improvements, opportunities for cost savings, and other modifications to ensure success of the program.

A final report was submitted to the Resource Management Agency (Chief Building Official Michael Rodriguez) in late May 2012 and included a phased priority listing of recommended improvements along with an analysis of the existing program. In July staff met with representatives from various County Departments and agencies along with members of the public to discuss the findings in the report and receive feedback.

This memo is provided for information and to provide staff comment on what we believe would be a Phase 1 implementation of the report that would be considered by the Board. Staff intends to make a formal presentation to the Board of Supervisors on October 16, 2012 including recommendations to receive the report and direction on the three issues addressed below. Other recommendations in the report would be considered as Phase 2 and Phase 3 recommendations to be considered once the Phase 1 modifications are implemented as directed through formal Board action.

Proposed Phase I Items

1. The Administrative Law Judge (ALJ) process

In the report, CSG recommends that because of the expense, time commitment, and lack of effectiveness, the ALJ process be used sparingly with significant modifications as there are other recommended procedures that should be considered to replace or supplement the practice. The report recommends that only certain cases should be brought before the ALJ. These include cases that:

- Do not pose imminent risk to life, health, or safety
- Will not be significantly affected by the extended time that ALJ requires
- Could benefit from the relatively high level of exposure to the administrative court bench.

Staff has found that there are cases that do not require the level of review brought by the ALJ. For these types of cases, we have identified three possible alternatives to consider:

1. Establish an Administrative Appeals Hearing Panel. Such a panel consisting of 3 – 5 community members could supplement or even replace the ALJ process (recommended in report). It should be noted that there has been concern in the past regarding using such a panel as there is the belief that such a panel could be subject to influence from the community or political pressure.
2. Utilize the Building Standards Board of Appeals as the Hearing Panel. This is a technical board that is required under the Building Codes so we could reduce the number of panels.
3. Create a single Hearing Officer appointed by the Department (Staff proposal in lieu of the ALJ and Administrative Appeals Hearing Panel). A qualified hearing officer could be a Code Enforcement professional from a neighboring community or other individual having the experience necessary, but without bias or conflict of interest.

It should be noted that to institute any of the above recommendations would require revisions to the existing County Code (section 1.22).

2. Board-Up and Abatement Revolving Fund

The second significant recommendation in the report is the establishment of a Board-up and Abatement fund. When a property owner does not respond to the County's request to clean his property, the lot would be cleaned by a private contractor at the County's expense. An invoice is then mailed to the property owner requesting payment to the County within 30 days. If payment is not received, the process to publish a notice of lien against the property is undertaken. Cases that would be considered for abatement would be those violations that pose a serious life, health and/or fire safety concern as determined by the Chief Building Official.

Staff supports this recommendation. The Board adopted an appropriation of \$100,000.00 as part of the FY 2012-13 budget to establish a Nuisance Abatement Fund which is intended to cover the cost the abatement and board-up work. Implementation of this action would require revisions to the existing County Code (section 1.22).

3. Reconsider the existing priority system to ensure balanced responses to complaints

The third recommendation in the consultant's report is to review the existing priority system and consider going from the three-level priority system to a five-level system with level 1 being high priority life safety issues to level 5 issues which would pose no violation of current code but may be aesthetic or appearance oriented. Staff is supportive of this recommendation and is reviewing the implications of converting to a five step system. We will present a suggested program on October 16.

Attachment: Review of the Code Enforcement Program and the Effectiveness of the Administrative Law Judge Process in the Building Services Division of Monterey County dated May 2012

