



Legislation Details (With Board Report)

File #: 12-953 **Name:** ALJ Board Report
Type: General Agenda Item **Status:** Passed
File created: 10/4/2012 **In control:** Board of Supervisors
On agenda: 10/16/2012 **Final action:** 10/16/2012

Title: a. Direct staff to study and propose changes to Title 1.22 of the County of Monterey Code to:
1. Reduce the use of an Administrative Law Judge to play a more limited, selective role in adjudicating certain code enforcement cases;
2. Create a Hearing Officer role and/or appoint an Appeals Hearing Board of qualified individuals; and
3. Implement a progressive enforcement program that would include a more diligent approach to the use of administrative citations and follow-up with collections.
b. Authorize staff to convene a group of code enforcement stakeholders to provide a forum for reviewing proposed changes to Title 1.2 prior to making recommendations to the Board.
c. Direct staff to utilize the Nuisance Abatement Fund with reimbursements for abatement costs and administrative costs to be recovered through liens recorded against the property.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 12-953 Attachment A - Memo, 2. Completed Board Order

Date	Ver.	Action By	Action	Result
10/16/2012	1	Board of Supervisors	approved	Pass

a. Direct staff to study and propose changes to Title 1.22 of the County of Monterey Code to:
1. Reduce the use of an Administrative Law Judge to play a more limited, selective role in adjudicating certain code enforcement cases;
2. Create a Hearing Officer role and/or appoint an Appeals Hearing Board of qualified individuals; and
3. Implement a progressive enforcement program that would include a more diligent approach to the use of administrative citations and follow-up with collections.
b. Authorize staff to convene a group of code enforcement stakeholders to provide a forum for reviewing proposed changes to Title 1.2 prior to making recommendations to the Board.
c. Direct staff to utilize the Nuisance Abatement Fund with reimbursements for abatement costs and administrative costs to be recovered through liens recorded against the property.

RECOMMENDATION:

Staff requests the Board of Supervisors:

a) Direct staff to study and propose changes to Title 1.22 of the County of Monterey Code to:
1. Reduce the use of an Administrative Law Judge to play a more limited, selective role in adjudicating complex enforcement cases;
2. Create a Hearing Officer role and/or appoint an Appeals Hearing Board of qualified individuals; and
3. Implement a progressive enforcement program that would include a more diligent approach to the use of administrative citations and follow-up with collections.
b) Authorize staff to convene a group of code enforcement stakeholders to provide a forum for reviewing proposed changes to Title 1.2 prior to making recommendations to the Board.
c) Direct staff to utilize a Nuisance Abatement Fund with reimbursements for abatement costs to be recovered

through liens recorded against the property.

SUMMARY/DISCUSSION:

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 (CE) Program and specifically to provide recommendations on process improvements, opportunities for cost savings, and other modifications to ensure success of the program.

A report was submitted to the Resource Management Agency in late May 2012 and included a phased priority listing of recommended improvements along with an analysis of the existing program. On September 17, 2012, the Board of Supervisors received a copy of this report (**Exhibit A**).

Staff is requesting that the Board provide direction for CE Program changes and modifications that are supported by the consultant and staff. The Administrative Law Judge (ALJ) program of adjudicating cases, implemented in FY10/11, has been found to be ineffective, expensive and proven to be of only limited success. For example, of the twenty-one cases heard before the ALJ, for a total cost of \$83,500 (including administrative costs), ten cases still remain unresolved. The cost for the ALJ, coupled with the cost of staff and legal time devoted to preparing cases is justified in longer more complex matters. In staff's judgment, it would be more cost-effective to provide alternative ways to address less severe code violations such that there are stronger incentives and penalties available to achieve compliance. With that being said, the ALJ approach retains value in dealing with certain code enforcement cases that could benefit from the ALJ hearing process (i.e. cases for which little or no compliance has been made and staff has exhausted efforts to gain compliance), but this should not be the only method available to staff to bring cases to conclusion.

Staff also recommends utilizing the "Revolving Board-up and Abatement Fund and Procedure" to provide an identified process and funding source to abate public nuisances, such as abandoned properties that are considered dangerous or attractive nuisances. Following proper legal procedures, the County would abate the nuisance and then seek reimbursement of the abatement costs and related administrative costs. If payment is not received in a timely manner, a notice of lien can be recorded against the property. The Board of Supervisors approved \$100,000 in the FY2012/13 budget to support this program with the recognition that over time it would become self-funding.

Title 1.22 of the County of Monterey Code will need to be amended to provide the legal and procedural basis to implement some of the recommendations. Previously, when Title 1.22 was amended to establish the ALJ program, a group of stakeholders was involved to provide feedback and perspective on the proposed changes. Staff met with a similar group in mid-July to review and discuss the current CE program and opportunities for improvements.

Staff is seeking the Board's conceptual endorsement of the proposed recommendations (as outlined in the first section of this report) to improve the CE Program's effectiveness. Upon approval by the Board, staff estimates that the proposed amendments to Title 1.22 can be reported to the Board by January 2013 and fully implemented before the end of FY12/13.

OTHER AGENCY INVOLVEMENT

This report has been reviewed by County Counsel, and applicable departments of the Resource Management Agency including the Finance and Planning Departments. There is concurrence with the approach outlined and recommended.

FINANCING

There is no immediate financial impact associated with the actions recommended to the Board via this report. Staff believes that implementing the changes suggested in the report will significantly improve the cost-effectiveness of the Code Enforcement Program over time. The costs of the staff work and any ancillary costs of implementing changes to Title 1.22 can be funded within the existing budget allocation for the Program.

Prepared by:

Amy Feagans
Management Specialist
Code Enforcement

Approved by

Michael Rodriguez
Chief Building Official

Approved by

Benny J. Young, P.E.
Resource Management Agency Director

Attachments: Exhibit A - Memo and Report