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**CLARK COUNTY**  
WASHINGTON

**AUDITOR**  
**GREG KIMSEY**

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## **NEWS RELEASE**

October 12, 2005

**Contact:** Greg Kimsey, Clark County Auditor, (360) 397-2078  
Laurence Feltz, Senior Management Analyst, (360) 397-2310 Ext. 4689

### **Auditor's Office Issues County Code Enforcement Audit Report**

Vancouver, WA –The Clark County Auditor's Office has completed a performance audit of the Department of Community Development's Code Enforcement Division. Code Enforcement investigates citizen complaints about code violations. The division was generally successful in achieving compliance without financial penalty or court action. This "voluntary compliance" is a "Best Practice" that Code Enforcement should continue. The report recommends the following actions to improve code enforcement.

#### Use financial penalties to deter repeat violators

The audit found that repeat violators were frequent. Forty percent of the 387 nuisance code violation cases opened in 2004 involved properties that had similar violations in 2002, 2003, or 2005. We found that financial penalties were rarely imposed in these cases. Consequently, we recommend that Code Enforcement adopt actions, including a more frequent use of financial penalties, to deter repeat offenders.

#### Assure that dangerous structures are promptly closed to public entry

The audit identified 14 cases which involved citizen complaints about dangerous structures in their neighborhoods. The audit found that Code Enforcement, on average, conducted 6 inspections over a 98 day period before assuring that the structures were closed to public entry. Requirements that property owners be found, notified, and given a specified period of time to board up the property contributed to the delay.

The report recommends that Code Enforcement request Board of County Commissioner approval and work with the Prosecuting Attorney to develop procedures and recommend code changes that would enable the closing of dangerous structures promptly. Closure expenses would be financed by funds previously collected from fines, and the property owners would be billed for the costs incurred.

County Auditor Greg Kimsey stated "We are pleased to see that the Department of Community Development is already taking action to implement our recommendations and improve enforcement of the county code."



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V (360) 397-2025; TTY (360) 397-2445; E-mail ADA@clark.wa.gov

### **Audit Services**

P.O. Box 5000, Vancouver, WA 98666-5000

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(360) 397-2078, Fax (360) 397-6007, [www.clark.wa.gov/auditor](http://www.clark.wa.gov/auditor)



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**Department of Community Development**

**Performance Audit of Code Enforcement**

**Clark County Auditor's Office**

**Report #A05-02**

**October 12, 2005**

**Audit Services**

1300 Franklin, Suite 575, P.O. BOX 5000, Vancouver WA 98666-5000  
(360) 397-2078, FAX (360) 397-6007, [www.co.clark.wa.us/auditor](http://www.co.clark.wa.us/auditor)

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## EXECUTIVE SUMMARY

Each year, the Department of Community Development's Code Enforcement Division investigates about 2,000 cases involving possible violations of the county's building, nuisance, zoning, environmental, and fire codes.

We conducted a detailed review of 1,019 cases involving building code (e.g., building without permits) and nuisance code (e.g., abandoned autos, garbage) violations that the Division opened in 2004 and subsequently investigated and closed.

We found that, on the whole, the Code Enforcement Division:

- opened investigations promptly, and closed cases with adequate evidence of compliance. On the average, 91 days and just over 4 inspections were required to achieve compliance and close a case.
- achieved compliance voluntarily (i.e., fewer than four inspections were required).
- seldom used financial penalties as a means to gain compliance. About 1 in 100 cases resulted in a fine.

Our review also disclosed the following:

- dangerous structures were not secured from public entry quickly. Our review identified 14 cases which involved dangerous structures.
  - the average time required to secure the property from unsafe public entry and use was 98 days. The time to secure ranged from a low of 36 to a high of 251 days. An average of 6 inspections per case was required.
  - requirements that property owners be found, notified, and given a specified period of time to board up the property contributed to the delay.
- repeat violators were frequent. Forty percent of the nuisance code violation cases that Code Enforcement closed in 2004 involved properties that had similar violations in 2002, 2003, or 2005.

Consequently, we recommend that the Department of Community Development:

- act to assure dangerous structures are boarded up promptly. The Department should request Board of County Commissioner approval and work with the Prosecuting Attorney to develop procedures and code changes that would enable Code Enforcement to
  - close dangerous structures immediately upon discovery, financed by funds previously collected from fines.
  - bill property owners for the costs incurred.
- adopt actions, including more frequent use of financial penalties, to reduce the substantial repetitive workload generated by repeat offenders.
- update Code Enforcement Division policy with detailed guidance reflecting policy changes relating to dangerous structures, issuance of citations and Notice & Orders, and the imposition and settlement of liens.
- adopt performance measures which
  - track and report the amount of time required to secure dangerous structures.
  - track and report data related to repeat offenders.
  - define, measure, and report the percentage of cases for which compliance is achieved voluntarily.

## BACKGROUND

Clark County's Code Enforcement Division (CE) is under the auspices of the county's Department of Community Development. CE investigates complaints that allege violations of the Clark County Code.

CE's staffing totals 10 Full Time Equivalent positions (FTEs). Staffing consists of a program manager; 5 Code Enforcement Officers; 2 case coordinators, and 2 clerical staff positions.

CE's budget for the 2005-2006 biennium is \$1.6 million.<sup>1</sup> Approximately 25 percent of CE funding comes from each of the following sources; building fees, development fees, National Pollutant Discharge Elimination System billings, and the General Fund.

### Complaint Categories

CE places complaints received into the following categories of cases.

- Building (for example, construction without a permit)
- Nuisance (inoperable vehicles, junk)
- Environmental (erosion control)
- Zoning (home businesses incompatible with zoning)
- Fire Code violations
- Public Right-of-Way (grass obstructing drivers' view)
- Water Quality

The table below shows the number of cases, by type, opened by CE in 2004.<sup>2</sup>

Type of Case	Number of Cases	Percent of Total
Nuisance	511	31
Building	508	31
Zoning	305	19
Environmental	171	11
Other	139	8

This report involved a detailed analysis of Building and Nuisance cases, which together constitute a major portion of CE's workload. Typical building code violations investigated by CE include:

- No building permit. All construction projects with a material value over \$1,500 require a building permit. Exemptions include buildings used 100 percent for agricultural purposes.

<sup>1</sup> \$1.6 million was also CE's budget for the 2003-2004 biennium.

<sup>2</sup> Cases opened in 2004 and closed by July 7, 2005.

- No final occupancy certificate. The certificate ensures that all inspections have been conducted and requirements met.
- Dangerous structures. This includes abandoned buildings that are open and accessible, thus becoming attractive places for children or vagrants to enter. It also includes buildings that due to lack of maintenance are determined by the Health Department to be unsuitable for human habitation.

Typical nuisance code violations investigated by CE include the presence of inoperable vehicles; waste, rubbish, and trash; or weeds and tall grass in the yard. The definition of what constitutes a violation differs depending upon whether an urban or a rural area is involved. Nuisance cases may also involve violations of other code provisions. For instance, the presence of inoperable vehicles may indicate operation of an unauthorized auto repair business—a zoning violation.

#### Complaint Process Policy and Procedures

Most of CE's work is initiated because a citizen has complained about a possible violation of county code. CE's stated policy for handling complaints is as follows:

- After receiving the complaint, CE opens a case and a Code Enforcement Officer conducts a field investigation. If a code violation is found, a letter is sent to the property owner advising them of the violation and giving them a timeframe (from 10 to 30 days) in which to correct it.
- The Officer re-inspects the property at the end of the given timeframe. If the second investigation verifies compliance, the case is closed; if it indicates substantial progress has been made, a second letter is sent advising of the timelines expected<sup>3</sup>.
- If noncompliance continues, a Notice and Order can be issued ordering compliance within ten days or fines will begin. The property owner can appeal the Notice and Order, which then goes before a Hearings Examiner.
- If the Notice and Order is not appealed, or the Hearings Examiner affirms the Notice and Order, fines are imposed and continue each day until the violation is corrected. If fines are unpaid they are recorded as a lien on the property.

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<sup>3</sup> This review found that, in practice, several letters and inspections are completed before cases are closed.

## OBJECTIVES, SCOPE AND METHODOLOGY

The overall objective of this performance audit was to review CE practices and make recommendations intended to increase program effectiveness. A related objective was to identify and recommend the adoption of specific performance measures.<sup>4</sup>

Our review is based upon analysis of CE cases opened in 2004 and closed by July 7, 2005. General data, such as the amount of time required to close a case, were obtained for all case categories. In addition, cases involving building and nuisance code violations were reviewed in detail to determine: (1) the number of inspections and enforcement letters each case required; (2) whether a Notice and Order was issued; (3) whether the property involved had been the subject of similar code enforcement complaints, and (4) whether the complaint involved a dangerous structure.

To gain an understanding of the process, we interviewed code enforcement personnel and observed Code Enforcement Officers on complaint investigations.

Our audit was performed in accordance with generally accepted government auditing standards.

## AUDIT RESULTS

CE in 2004 generally opened, investigated, and closed<sup>5</sup> cases in an average of less than 100 days. The table below shows the length of time cases were open, by type.

### 2004 CODE ENFORCEMENT CASES

Type of Case	Average # Days Open
Nuisance	96
Building	86
Zoning	106
Environmental	52
Other	82

<sup>4</sup> The performance audit of the Department of Community Development that was issued in 2000 did not cover the activities of the Code Enforcement Division.

<sup>5</sup> Closed by July 7, 2005.

CE Closed Most Cases with Adequate Evidence that Property Was Now in Compliance

Our detailed review of Building and Nuisance cases found that Code Enforcement conducted an average of 4.1 inspections before cases were closed. Our review concluded that Code Enforcement had adequate evidence of compliance at the time of case closure. Most case files contained photographs showing the nature of the complaint at the time the case was open, and photographs or other evidence of subsequent compliance. For example, cases involving building permit violations generally listed the number of the new building permit that had been obtained. And cases involving inoperable autos or piles of debris generally contained pictures showing the cleaned-up property.

Code Enforcement Usually Achieved Voluntary Compliance

Voluntary compliance is a Best Practice for code enforcement. Clark County's CE considers voluntary compliance a goal, but has not defined and reported performance compared to the goal.

For the purposes of this review, we used two different definitions for voluntary compliance and measured CE's performance against each. We measured CE's success in obtaining voluntary compliance if (1) no more than three inspections were required to gain corrective action, and (2) no more than four inspections were required.<sup>6</sup>

<b>Complaint Type</b>	<b>Total # Cases</b>	<b># Cases in which CE found a violation present</b>	<b>Voluntary Compliance (3 or fewer inspections)</b>	<b>Voluntary Compliance (4 or fewer inspections)</b>
Building	508	338	80%	91%
Nuisance	511	387	67%	78%

More than twice as many inspections were required to gain corrective action if compliance was not achieved voluntarily (four inspections or fewer). Building cases required an average of 6.0 inspections if compliance was not voluntary, compared to 3.0 otherwise. Nuisance cases required an average of 7.3 inspections if compliance was not voluntary, compared to 3.4 if voluntary.

Financial Penalties Were Rare

We found that CE rarely used financial penalties as a means to gain compliance.

CE has two avenues for administering fines (1) imposing fines and liens on property as part of its Notice and Order process, and (2) writing out a citation ticket.

<sup>6</sup>In addition, if a Notice and Order was issued, compliance was not classified as voluntary.

Notice and Orders warn of financial penalties if compliance is not achieved within a specified timeframe. Our review found that CE:

- issued Notice and Orders to 9 percent of the building cases and 15 percent of the nuisance cases that were opened in 2004. The parties receiving Notice and Orders generally took corrective action in time to avoid fines and liens on their property.
- opened 1,903 cases<sup>7</sup> in 2003 and filed Notice and Orders and subsequent liens on 9. Six of these liens, totaling \$411,400 are still outstanding, while 3 liens totaling \$196,000 were settled for a total of \$300.
- opened 1,986 cases in 2004 and filed liens on 10. Eight liens totaling \$204,750 are still outstanding, while 3 liens totaling \$45,350 were settled for \$1,950.

CE's Program Manager advised that the purpose of the lien is to gain compliance, and the settlement amount of the lien is negotiated with that goal in mind. The settlement amount is based upon the administrative cost associated with processing the case. Consequently, CE often settles liens for substantially less than the total amount imposed.

CE also administers fines through the citation process. We found that CE rarely wrote citations that fined property owners for code violations. For the 3,889 cases opened in 2003 and 2004, CE

- issued a total of 23 citations to 12 different property owners. The citations totaled \$25,600. Most of the total—\$20,500—was for violations of erosion control and water quality code requirements. The remaining amount—\$5,100—consisted of fines ranging from \$100 to \$500. These smaller fines were administered to six property owners, generally for cases related to signs, tall grass, and other relatively minor code violations.

CE advised that it had recently increased the use of citations for violations related to the "tall grass" provisions of the county code (i.e., grass taller than twelve inches high is a violation in the urbanized part of the county). CE has found that the result of increased use of citations for this offense has been faster compliance and a reduced likelihood of repeat violations.

#### Many Nuisance Cases Involved Repeat Offenders

We reviewed all nuisance cases which were closed in 2004 after CE judged that the properties now complied with the code. We found that 40 percent<sup>8</sup> of these

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<sup>7</sup> Includes all CE cases in all categories: building, nuisance, environmental, zoning, etc.

properties involved repeat offenders—e.g., similar violations in years closely preceding or subsequent to 2004 (i.e., 2002, 2003, or 2005).<sup>9</sup>

CE's Program Manager advised that repeat offenders were more likely to be issued Notice and Orders in order to accelerate compliance. Our review verified this. Notice and Orders were issued in 18 percent of nuisance cases involving repeat offenders, compared to 12 percent in other cases.

#### Dangerous Structures Were Not Closed Quickly

Cases involving damaged or derelict structures which were dangerous because they were open and accessible to public entry were not common. However, according to CE personnel, such structures are becoming more frequent, partially due to increasing methamphetamine-related problems in the county.

CE practice and policy requires that the property owner be notified of their responsibility to secure the structure within a specified timeframe; usually 10 days from receipt of the letter. CE personnel advised that the difficulties of finding and notifying the property owner contribute to the delays in securing the structures.

Our review identified fourteen dangerous structure cases. A detailed review of these cases showed the following:

- Properties were inspected promptly—usually within one or two days after receiving the complaint.
- The average time required to secure the property so that it was not subject to unsafe public entry or use was 98 days.
- The time to secure ranged from a low of 36 to a high of 251 days.
- An average of 6 inspections per case was required before compliance was achieved.

An example from one of CE's dangerous structure cases is pictured below. More than three months elapsed before CE's inspections disclosed that this house had been boarded up.

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<sup>8</sup> CE investigated 511 nuisance cases and found 387 to involve a code violation. Our review found 155 of the 387 (40%) to involve repeat offenders.

<sup>9</sup> Our review of a sample of building cases indicated that the usual nature of the violation involved—building without a permit or an expired permit—did not lend itself as readily to repeated annual violations as nuisance complaints.



The Department of Community Development was provided a draft of this report for their review and comment. They agreed with the report's conclusions, and are taking action to implement the report's recommendations. The department's comments are included in their entirety in the Appendix to this report.

## CONCLUSIONS

The Department of Community Development's Code Enforcement Division:

- closed cases with adequate evidence of compliance.
- achieved voluntary compliance, as we defined it for purposes of this review, in most cases. Cases in which voluntary compliance was not achieved required more than twice as many inspections, compliance letters and added work than when compliance was voluntary.
- often was investigating properties that had been the subject of similar complaints in prior years. This "repeat offender" characteristic was particularly common for nuisance category cases.
- utilized policy and procedures that did not assure that dangerous structures were quickly closed to public entry.

## RECOMMENDATIONS

We recommend that the Department of Community Development:

- act to assure dangerous structures are boarded up promptly. The Department should request Board of County Commissioner approval and work with the Prosecuting Attorney to develop procedures and code changes that would enable Code Enforcement to
  - close dangerous structures immediately upon discovery, financed by funds previously collected from fines.
  - bill property owners for the costs incurred.
- adopt actions, including more frequent use of citations and other financial penalties, to reduce the substantial repetitive workload generated by repeat offenders.
- update Code Enforcement Division policy with detailed guidance reflecting policy changes relating to dangerous structures, issuance of citations and Notice & Orders, and the imposition and settlement of liens.
- adopt performance measures which
  - track and report the amount of time required to secure dangerous structures.
  - track and report data related to repeat offenders.
  - define, measure, and report the percentage of cases for which compliance is achieved voluntarily.

## APPENDIX: DEPARTMENT OF COMMUNITY DEVELOPMENT COMMENTS



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### DEPARTMENT OF COMMUNITY DEVELOPMENT CODE ENFORCEMENT

#### MEMORANDUM

TO: Linda Bade, Chief Internal Auditor  
Larry Feltz, Senior Management Analyst

FROM: Linda Moorhead, Code Enforcement Manager

DATE: October 4, 2005

SUBJECT: Code Enforcement Response to Draft Performance Audit

We appreciate the opportunity to have a formal examination of our program and practices. The recommendations that you have made are indicators that some changes in our policies and procedures are overdue. We have already begun the process on some of the recommendations and will begin others by the end of the year.

Overall, the facts contained within the audit appear to be accurate. Where you found financial penalties to be rare, I'd like to explain that not all those were negotiated settlements. Many property foreclosures result in no lien pay off when there is insufficient equity to pay other securities. The law recognizes that all federal, state and county tax liens are subordinate to any liens imposed upon the same property by others.

Code Enforcement has been very conscious of the fact our role is not to be "over-zealous" in our response to complaints. As pointed out in the audit report, many nuisance cases involved repeat offenders. Although, repeat offenders have been given more restrictive timeframes for compliance than first time offenders, it may be time to stop offering them any opportunity to repeat a violation without penalty.

The following is an abbreviated response to each of the recommendations. Again, thank you for the courtesy shown this division during the review.

### **Dangerous Structures** –

Dangerous structures present a safety hazard to neighborhoods. The number of dangerous structures is increasing, as well as the amount of time it's taking to gain compliance. One reason for the difficulty contacting the property owner may be because the structure was a meth house and the property owner has left the vicinity. Another is the whereabouts of the property owner is unknown and the assessor's records do not have an accurate forwarding address.

Code Enforcement would like to initiate a process to speed up securing structures identified as dangerous, either due to being open and accessible, or a structure so dilapidated it is in danger of falling down and has been deemed by the building official as a hazard.

There are different methods of securing a dangerous structure that could include boarding up the doors and windows, placing a security fence around the structure or demolishing it completely.

To expedite the process, Code Enforcement needs some tools it presently does not have. When a structure is posted as "DANGEROUS" a property owner has ten days in which an appeal can be filed. At the end of the ten day appeal period, if the property is not secured, Code Enforcement would like the assistance of the Prosecuting Attorney to immediately serve a Notice to Abate or restraining order.

Action - Due to the public safety risk imposed, Code Enforcement has already met with the Board of Commissioners to request that the Prosecuting Attorney's office is authorized to take immediate legal action without scheduling a worksession, in order to expedite the process. As soon as legal notice is given, Code Enforcement will contract to have the building secured by one of the above methods. Abatement funds will be used and a lien will be placed on the property for the cost of abating the dangerous structure, plus any administrative costs. A decision was not made at this worksession and another meeting is scheduled for further discussion.

### **Use of Citations** –

Code Enforcement can issue a Notice and Order, or issue a civil citation when a violation of the code occurs. A Notice and Order imposes a penalty for every day there is a violation. A civil citation is a penalty that is imposed on the day the violation is observed.

When a violator is a repetitive customer, we currently go directly to Notice and Order in order to expedite the process. However, as pointed out in the audit, it has not proved to be a deterrent to repeat offenders.

A policy will be written that will direct staff to write a citation upon verification of a second offense of the same violation. The policy will include reporting requirements so that the effectiveness of this policy can be tracked.

### **Update Policy Manual -**

There is no current written policy on the settlement of liens. Chapter 32.08.080 authorizes the Director to settle and compromise civil penalties.

Past practice has been to base the amount of the settlement on the administrative costs incurred by Code Enforcement in resolving the violation. Those include the number of contacts, calculation of all recording fees, hearings examiner charges and clerical support. When a case has been referred to the Prosecuting Attorney's office settlement is negotiated by the PA's office. As a rule, they negotiate for 10% of the total amount of the liens that have been recorded.

Many cases that end in foreclosure result in liens being dismissed.

A draft policy regarding the settlement of liens will be first priority in updating the policy manual. It will be discussed and forwarded to the Board for their approval prior to implementation.

A policy on the abatement of dangerous structures has been discussed and will be drafted following approval of the Board instituting more authority to the PA's office in expediting legal action and abatement procedures. This policy will also require reporting requirements so that the effectiveness can be tracked.

### **Performance Measures -**

The performance measures recommended by the audit include tracking the abatement of dangerous structures, repeat offenders, and length of time to achieve voluntary compliance. As mentioned previously, the policies put in place will have reporting requirements.

I am also working with our technical support to determine how we can easily generate this information from our Tidemark software and hope to have those adjustments made by the first of January, 2006. If necessary, we will contract with outside resources to develop new reports or to add new case fields so the data can be obtained in a timely manner.

### **Summary**

The audit pointed out some areas of weakness that Code Enforcement was already aware of and working on. Specifically, the amount of time it takes to secure a dangerous structure.

Code Enforcement does not process applications, therefore, performance is based on the timely resolution, which varies considerably from case to case. In the past, no formal mechanism was implemented to measure our performance. The suggestions made by the audit in defining “voluntary compliance” are helpful and will be used as a guideline to gauge successful closure.