

Collection of Civil Penalties and Recovery of Abatement Costs

DDES Code Enforcement Section

Report No. 93-3

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INTRODUCTION AND BACKGROUND

The audit of collection of code enforcement civil penalties and recovery of abatement costs was part of the Auditor's Office 1992 Work Program approved by the County Council.

The Code Enforcement Section of the Environmental Division within the Department of Development and Environmental Services is primarily authorized to enforce the King County building, environmental, and land use codes. In performing its responsibilities, the Code Enforcement Section is authorized to assess civil penalties against the violator and to correct violations at the violator's expense.

Civil penalties are the violator's personal obligation and are a lienable interest against the owner's property.

OBJECTIVE AND SCOPE

The objective of the audit was to review and evaluate the procedures and practices of the Code Enforcement Section in accounting, billing and collection of civil penalties and abatement costs. The audit also reviewed and assessed the likelihood of collecting outstanding civil penalties and recovering unpaid abatement costs.

The audit scope was limited to the review of active and closed case files maintained by the Code Enforcement Section, listings of receivables, and relevant management information system and Accounting Resources and Management System (ARMS) reports. The audit also reviewed billing and collection practices, and confirmation requests were sent to selected violators with outstanding civil penalties and/or abatement amount balances. Abatement work required and performed by the County in 1992 was also examined.

SUMMARY STATEMENT OF FINDINGS

We concluded that the Code Enforcement Section did not have an adequate accounting system to properly account for civil penalties and abatement costs. The billing and collection efforts of the Code Enforcement Section were deficient causing a substantial portion of receivables to remain uncollected, waived from collection, or written off as uncollectible.

MAJOR FINDINGS AND RECOMMENDATIONS

Finding 1. Inadequate accounting system to properly account for civil

penalties and abatement costs.

The Code Enforcement Section did not have an adequate accounting system to properly account for civil penalties and abatements receivable. Civil penalties and abatement costs, and waiver of penalties were not contemporaneously recorded in the County's accounting system (ARMS). Hence, the balance of unpaid civil penalties and abatement costs reported in the County's financial statements would most likely be incorrect.

The audit recommended that an accounting system should be established to properly account for code enforcement civil penalties and recoverable abatement costs. The system should include proper documentation, signature of the preparer of documents, and the supervisor's approval when charging civil penalties and abatement costs and making changes, such as a waiver of penalties, writing off receivables, or other adjustments to the amount of receivables. We also recommended that accounting entries affecting the civil penalties and abatement accounts should be contemporaneously reflected in the County's accounting system and records.

Finding 2. Financial statement balances from abatements receivable were incorrect and understated the receivables net realizable value by \$322,000 in 1990 and \$375,000 in 1991.

Financial statement balances for "abatements receivable" and "estimated uncollectible accounts receivable" under the Building and Land Development special revenue fund for 1990 and 1991 were incorrect.

The financial statement balance each year for abatements receivable in 1990 and 1991 was \$1,089,909. However, Code Enforcement records for abatements receivable showed balances of \$1,286,900 and \$1,501,200 in 1990 and 1991, respectively. Based upon selected cases closed in 1992, the Code Enforcement estimated collection experience was 25% of the abatements receivable. Hence, the financial statements had understated the receivables net realizable value by an estimated \$322,000 in 1990, and \$375,000 in 1991.

The audit recommended that Code Enforcement and Finance Sections of the Environmental Division should always maintain a complete and accurate balance of unpaid civil penalties and recoverable abatement costs and reasonable estimated allowance for uncollectible accounts in the County's financial records.

Finding 3. Invoices to collect civil penalties and abatement costs were not sent on a routine basis.

Invoices to collect civil penalties and abatement costs were not sent to violators on a monthly basis, decreasing the chance of successfully collecting outstanding receivables from violators.

The audit recommended that the Code Enforcement Section should send invoices to collect civil penalties and abatement costs from violators on a monthly basis.

Finding 4. Efforts to collect delinquent civil penalties and recover abatement costs were lacking.

The Code Enforcement Section was lacking in its efforts to collect delinquent civil penalties and recover abatement costs from violators.

The audit recommended that Code Enforcement Section should improve its efforts to collect civil penalties and abatement costs in the following ways: 1) Regular monthly billings, 2) Issuance of demand letters after violators failed to pay after a certain number of days, 3) Some follow-ups by phone and/or person to collect the amount due, 4) Pursue last resort efforts by filing legal action against delinquent violators to compel payment or judicially foreclose on the subject property, and 5) Lengthen the duration of a lien filed against violators' property from 3 years to at least 10 years.

Finding 5. Unclear who has authority to waive civil penalties.

The King County Code, Title 23, does not specify whether the manager of the Environmental Division, with or without consultation with the King County Prosecuting Attorney's Office, has authority to waive civil penalties.

The audit recommended that Title 23 should be amended to include a provision which specifies the County officials who are authorized to waive collection and to write off civil penalties, and detail the circumstances and criteria upon which civil penalties and abatement costs could be waived from collection or written off.

Finding 6. A review of the civil penalty structure should be made since penalties assessed were not successfully collected.

There is a need for the County to review the civil penalty structure since penalties assessed were generally not successfully collected. It was estimated that about 75% of the abatements receivable were waived from collection or written off as uncollected accounts from violators.

Violators of the County building, environmental, and land use codes are assessed civil penalties to enhance compliance. Civil penalties, however, should be set at a level which could result in successful collection.

The audit recommended that management of the Environmental Division with the assistance of the Office of the Prosecuting Attorney should review the amount of civil penalties assessed to violators of the code. The penalty revision should preserve the ability to assess higher fines in cases where severe violations and/or potential environmental impacts exist, yet set reasonable penalty amounts which are likely to be successfully collected. We also recommended to charge a reasonable amount of interest on receivables after they became due, especially on unrecovered abatement costs.

Finding 7. Compliance certificates were unclear as to violator responsibility to pay outstanding civil penalties or abatement costs.

Compliance certificates issued by the Code Enforcement Section to violators who have corrected code violations noted on notice and orders did not specifically state that violators had a remaining obligation to pay any assessed civil penalties and/or abatement costs. The absence of an explicit statement on the compliance certificate may give violators the impression that once the violation is corrected, previous amounts owed are settled or forgiven.

The audit recommended that the compliance certificate be revised to include a statement that would clarify to violators that any accumulated civil penalties and/or abatement costs outstanding still have to be paid, even after the condition of violation is corrected.

Finding 8. Cost of two abatement projects exceeded original bid amounts by 137% and 117%.

Two abatement projects done in 1992 exceeded the amounts bid by the lowest bidder. One project bid for \$3,000 ended up with total project costs of \$7,120 or a 137% increase, and another project was bid for \$3,000 but ended up with total costs of \$6,520, or a 117% increase. These overexpenditures resulted from the contractor doing additional abatement work which was not included in the original scope of work but was authorized by Code Enforcement Section.

The audit recommended that the scope of abatement work used in the bidding process should encompass all work that is perceived to be needed to correct the condition of violation. It was also recommended that when significant additional abatement work is needed, the Code Enforcement Section should bid the extra work through the County Purchasing Section.

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