

# **CHRONOLOGY OF A CODE ENFORCEMENT CASE**

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**June 18, 2009**

# What is Code Enforcement?

- Quality of life issues;
- Things nobody else wants to deal with;
- City Municipal Code – Adopt State Building, Housing, Electrical Codes and others;
- State Law – Health and Safety Code Sections 17980.6 and 17980.7.

# How Is An Action Initiated?

- Usually a complaint from a member of the public, elected official or other City employee.
- Initial inspection by Code enforcement officer.

# **What authority does a Code Enforcement Officer have to inspect?**

- Code enforcement is an administrative act and they have similar authority to inspect as a police officer.
- Can view anything anyone can from a place that the public is allowed to be, i.e., street, sidewalk, neighbors yard.
- Can enter a residence with consent. If consent is not given, must leave and seek an administrative warrant to enter.

# Administrative Warrant?

- Same as a search warrant in a criminal case although the burden to prove the necessity for the warrant is slightly less.
- Need a declaration from code enforcement officer as to reason to believe a crime, violation of municipal code, is occurring. Usually, observations of trash and debris, unpermitted construction, foul odor, etc.
- Warrant will allow forced entry into residence without permission between 8 a.m. and 5 p.m., need special authority for night service.

# How to file a case?

- Code enforcement officer prepares case. This includes gathering the evidence to prove each alleged violation. Evidence usually consists of photographs, permits (or lack of), visual observations, research of City records.
- Submit to your City Attorney for filing, this can be outside counsel, or in-house. District Attorney will not file violations of a City's municipal code.
- City Attorney will review to determine if a violation exists and if the appropriate evidence has been submitted to prove the case beyond a reasonable doubt.
- CA must have this evidence prior to filing case. Professional responsibility dictates that case can't be filed if he does not have a belief that case can be proven beyond a reasonable doubt with evidence presented.
- If evidence is lacking, return for further investigation, if sufficient file case.

# Alternatives to filing a Criminal Complaint

- Administrative Citations; still must have proof beyond reasonable doubt.
- Draft Complaint; used by our office, very successful in achieving compliance.

# Case is now filed in court

- Resident is now a Defendant in a misdemeanor criminal case. Has all rights of any criminal defendant including right to an attorney and can be appointed public defender if financially qualified.
- Judges do not like to see these cases on their calendar. Looked at by court personnel as a bother. Waste of resources.
- Attorney or code enforcement must do everything possible to work with defendant to achieve compliance and so court will understand we are here because of the defendant, not the City.

# Court Hearings

- Arraignment, first appearance, defendant enters plea, can ask for time to get attorney or just think about it;
- Pretrial, opportunity for City and defendant to talk about case, if property now in compliance, case can be disposed of, quite often there will be a number of pretrials in the hopes of gaining compliance;
- Trial, only if absolutely necessary, all cases except infractions carry right to have a trial by jury.

# After Trial-Sentencing?

- Jail time, not likely.
- Compliance? Most courts will either put a defendant on probation or continue sentencing to give the person time to bring the property into compliance.
- If compliance usually will terminate probation or sentence to low fine.
- If no compliance, jail time could be imposed. Some judges will work with you, put defendant in jail for a day or two to get their attention and then release demanding compliance or more jail.

# **Conclusion**

The ultimate goal of any code enforcement action should be compliance. The court will be much more supportive if you show them that you are there only because the defendant has forced you to be there.