

Santa Cruz County Violates Law and Axes Appeals Board. Baseless Control to Continue Extortion and Abuse of Powers.

June 20, 2009 - Board of Supervisors Ellen Pirie, Neil Coonerty, Tony Campos, Mark Stone, John Leopold and former Jan Beautz; CAO, Susan Mauriello; Planning Dept. Director, Tom Burns; and County Counsel Dana McRae, Rahn Garcia and Chris Cheledon used Health & Safety Code 17920.5 on June 2 and 9, 2009, to justify disbanding the areas existing Building and Fire Code Board of Appeals Commission. The former Appeals Board members were exceptionally qualified as the newly elected commission, appointed by the Board of Supervisors on January 27, 2009. Please note the word “no” in the code misinterpreted by them below. The Appeals Board had existed since January 27, 2009 and was in existence when it was unlawfully disbanded.

Health & Safety Code

17920.5. As used in this part "local appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the building requirements of the city or county. In any area in which there is no such board or agency, "local appeals board" means the governing body of the city or county having jurisdiction over such area.

The following codes show that the County was unlawful and is unlawful by electing themselves to be the appeals board, in great conflict of interest and in violation of these preemptive State codes. Considerable interference and domination of the first appeals board meetings took place by County Counsel, two Supervisors and staff. The Board of Supervisors then slandered and libeled and entrapped the Appeals Board before disbanding them.

Note Government Code 1099 requires the Board of Supervisors to forfeit their first position. The Supervisors sit on many Commissions and are now required to step down due to their unlawful self election to be the appeals board June 9, 2009, after concealing it from citizens for 33 years.

Health & Safety Code Section:

17960. The building department of every city or county shall enforce within its jurisdiction all the provisions published in the State Building Standards Code, the provisions of this part, and the other rules and regulations promulgated pursuant to the provisions of this part pertaining to the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal, demolition, or arrangement of apartment houses, hotels, or dwellings. (The County cannot delete CBC 108.8 below as they did. Supervisors deleted the appeal process 11/2007 and deleted the entire section 11/2008.)

California Building Code SECTION 108.8 APPEALS BOARD

2007 CALIFORNIA BUILDING CODE

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108.8.1 General. *Every city, county or city and county shall establish a local appeals board and a housing appeals board. The local appeals board and housing appeals board shall each be comprised of at least five voting members that shall serve at the pleasure of the city, county or city and county. Appointments shall not be employees of the jurisdiction and shall consist of members who are qualified and specifically knowledgeable in the California Building Standards Codes and applicable local ordinances.*

108.8.2 Definitions. *The following terms shall for the purposes of this section have the meaning shown.*

HOUSING APPEALS BOARD. *The board or agency of a city, county or city and county which is authorized by the governing body of the city, county or city and county to hear appeals regarding the requirements of the city, county or city and county relating to the use, maintenance and change of occupancy of buildings and structures, including requirements governing alteration, additions, repair, demolition and moving. In any area in which there is no such board or agency, "Housing appeals board" means the local appeals board having jurisdiction over the area.*

LOCAL APPEALS BOARD. *The board or agency of a city, county or city and county which is authorized by the governing body of the city, county or city and county to hear appeals regarding the building requirements of the city, county or city and county. In any area in which there is no such board or agency, "Local appeals board" means the governing body of the city, county or city and county having jurisdiction over the area.*

108.8.3 Appeals. *Except as otherwise provided in law, any person, firm or corporation adversely affected by a decision, order or determination by a city, county or city and county relating to the application of building standards published in the California Building Standards Code, or any other applicable rule or regulation adopted by the Department of Housing and Community Development, or any lawfully enacted ordinance by a city, county or city and county, may appeal the issue for resolution to the local appeals board or housing appeals board as appropriate. The local appeals board shall hear appeals relating to new building construction and the housing appeals board shall hear appeals relating to existing buildings.*

Government Code Sections:

815.6. Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.

1099. (a) A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:

(1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.

(2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.

(3) Public policy considerations make it improper for one person to hold both offices.

(b) When two public offices are incompatible, a public officer shall be deemed to have forfeited the first office upon acceding to the second.

This provision is enforceable pursuant to Section 803 of the Code of Civil Procedure.

(c) This section does not apply to a position of employment, including a civil service position.

(d) This section shall not apply to a governmental body that has only advisory powers.

(e) For purposes of paragraph (1) of subdivision (a), a member of a multimember body holds an office that may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over another office when the body has any of these powers over the other office or over a multimember body that includes that other office.

(f) This section codifies the common law rule prohibiting an individual from holding incompatible public offices.

1021. A person is disqualified from holding any office upon conviction of designated crimes as specified in the Constitution and laws of the State.