

**COMMENT: This memo disregards Government Code section 27383** which reads: “No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record.”

To this day, the county records redtags not authorized by State law and charges property owners for the fees to record and expunge. Besides recordation and its slander is unlawful, the violations used are usually bogus, misinterpretations of code or omit higher statutes in favor of the citizen.

## **MEMORANDUM**

Date: September 23, 2005

To: **Fiscal Staff**  
Code Compliance Staff

From: Nancy McCollum

Re: **PROPOSED** COST RECOVERY PROCEDURES

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### **BACKGROUND**

A number of questions have come up recently surrounding our code cost recovery efforts. These include:

<!--[if !supportLists]-->1.) <!--[endif]-->Is there a minimum amount of staff cost due under which we will not bill? (wouldn't this also potentially apply to at-cost as well??)

<!--[if !supportLists]-->2.) <!--[endif]-->What is the minimum amount in staff cost recovery that dictates something will be taken to the Hearing Officer?

<!--[if !supportLists]-->3.) <!--[endif]-->Will we take cases to the Hearing Officer only for staff cost recovery, or will there always be civil penalties?

<!--[if !supportLists]-->4.) <!--[endif]-->Are we going to refer all non-Hearing Officer or non-court cases to County Collections?

At a minimum, we have a responsibility to bill for amounts due, even if they are very small. We do not have the authority to forgive accounts receivable. (unless we find out that there is a statutory limit- I've asked Rahn) That said, it does not make good economic sense to expend the same effort on small accounts as we would on larger ones.

## COUNTY COLLECTIONS PROCEDURES

After we have attempted collection of code costs due by mailing the party a letter and invoice requesting payment, (followed by a second request notice?) we are in a position to either forward non-responders to County Collections , to the Hearing Officer, or to Court.

County Collections will accept accounts for amounts over \$10 if we can provide a good address. If we do not have a good address they will only accept the account if it exceeds \$100.

In addition to unpaid invoices, we also refer cases to County Collections where the Administrative Hearing Officer or a Court has declared that unpaid code costs, civil penalties, and/or illegal rents are the person obligation of a property owner. This may be in addition to filing a lien on the property for the same amounts.

County Collections prefers getting accounts promptly from departments. They will then do the following: (do they always do all of them, except for the bolded items, even for a small amount? If not, maybe change the into to “They will then do one or more of the following, depending on the amount owed“:

- <!--[if !supportLists]-->• <!--[endif]-->Debtor is sent 2 automated notices
- <!--[if !supportLists]-->• <!--[endif]-->Debtor is assigned a Collection Officer who will send at least 1 or more additional notices.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor is contacted by Collection Officer by phone if a phone number is available.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor will be skip traced if mail is returned or phones are disconnected, etc.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor will be reported to national credit file database and the information will remain there for 7 years, even after paid in full.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor is asked to voluntarily provide document of financial status.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor is given the opportunity to make monthly payments.
- <!--[if !supportLists]-->• <!--[endif]-->Debtor is served with legal proceedings.
- <!--[if !supportLists]-->• <!--[endif]-->**Debtor is served with notice of court ordered "Order of Exam" for financial status.**
- <!--[if !supportLists]-->• <!--[endif]-->**Debtor's state income tax refund is withheld.**
- <!--[if !supportLists]-->• <!--[endif]-->**Debtor's wages are attached.**
- <!--[if !supportLists]-->• <!--[endif]-->**Debtor's bank account is seized.**

**The last 4 items in bold can only be used if the County has been awarded a judgement as a result of Court action, as occurred in the Tate case. Just having a Hearing Officer award would not be sufficient. (query- do they take the unpaid amount to court and get a judgement in order to take these additional steps?? Last**

**unbolded item infers that they will. This is important, because if they would do that, that may influence our decision as to when we go to admin hearing)**

All of these actions have certain criteria that must be met before Collections can proceed. For example, the first item on the list is also the first step for all accounts. However, if the address is not valid and the mail is returned they cannot proceed until they get good information. Also, the last item on the list is reserved for severely delinquent accounts with a high dollar amount. It is only used after all other steps have been unsuccessful and it does require that Collections has the debtor's valid and current bank information to proceed, in addition to the aforementioned judgement. This process can only be attempted once per account and will only allow Collections to seize funds currently available; they cannot keep going back until we are whole.

Once a debt is paid, an owner may still need to pay an additional amount to Planning in order to expunge a recorded red-tag.

Also, when I mentioned that Supervisor Stone had inquired into the status of the Tate collection, I found that they were at the point of attempting to serve Ray Tate, Jr. to require him to appear before a judge and provide information about his financial status (i.e., Order of Exam). They had heard that Mrs. Tate is in a rest home and, if that proves to be the case, they will not be able to serve her. Apparently, if someone is in the hospital or a rest home they cannot be served to assist in this sort of collection effort. (I don't think this belongs in the final

## **PROPERTY TAX COLLECION PROCEDURES**

When the Administrative Hearing Officer or a Court has ordered a lien ~~has At a minimum, we need the Hearing Officer's approval to place a tax lien~~ on someone's property, ~~When~~ we record the lien and forward it to the Auditor. They will send out an amended tax bill that includes the lien amounts. If the party does not pay their taxes, the lien will "fall off" the secured roll, but remains as a recorded lien against the property. "Falling off" the roll in effect means that the lien is not carried forward and put on the tax bill from year to year, it does not mean that it is no longer due. The party will have to clear it in order sell, refinance or otherwise change their title to the property. So, as long as we get the lien placed timely before ownership changes we will recover our costs sooner or later.

If the taxes are not paid within 5 years the property can be auctioned off and “sold to the State”. In that circumstance, our lien is on an equal footing with other special levies and will share in the distribution of the tax auction proceeds.

Once a lien is paid, an owner may still need to pay an additional amount to Planning in order to expunge a recorded red-tag.

## HEARING OFFICER PROCESS

This is good language to get us moving, but lets land on the threshold and then put that in here. Frankly, given all that collections does, especially if they will get court judgements, my inclination is to move that bar up now to a much higher amount, like \$1500...

It is estimated that it currently costs about \$500 in staff time to prepare and present a case to the Hearing Officer. That amount would also accrue to the account due from the party, but we need to determine the threshold amount that determines which cases are going to be sent to hearing. In fact, the amount due may not be the only determining factor; circumstances of the violation(s) may have an impact on this decision. The Daves need to decide and indicate if that needs to be part of the decision.

## SUMMARY

### SUGGESTIONS

We will send a two bills? for every Code case and any other unpaid obligation regardless of the amount due to meet our due diligence requirements. We will refer everything over \$10 to Collections if we can provide them with a good address. If we do not have a good address, that threshold becomes \$100. Amounts that are under the referral threshold will remain in our billing system, and if the owner either requests an expungement or applies for a permit in the future, the unpaid amount will be collected at that time. However, if the property ownership changes, the amount is reversed in the system and excused. Collections costs for handling our accounts will be charged back to us through the County's A87 Cost Plan.

The Daves need to determine whether we need to consider circumstances other than financial when deciding what cases are to go to the Hearing Officer. If the financial is to be the only determining factor, executive management needs to indicate what the threshold will be to send cases forward. Perhaps we could discuss this and come up with a recommendation for Tom's consideration.

## Memorandum

### **DRAFT**

To: Code Compliance Staff

CC: Fiscal Staff

From: David Laughlin and Ken Hart

Re: Code Compliance Cost Revision Policies and Procedures

There are instances in which it is appropriate to adjust the amount of code costs due. In the past, these adjustments have been made on a case-by-case basis by Code Compliance Investigators using their best judgment. However, we have developed uniform criteria to ensure consistency and to ensure that senior staff approves any adjustments, and that any such adjustments are appropriately documented.

Code costs are calculated at various times: at the time of permit application; permit issuance; hearing officer case preparation; referral to County Counsel; at the time of expungement, or when a case is violation is resolved without a permit. In these instances, or any other situation that may arise when costs are calculated, the cost information in ALUS must be reviewed and either confirmed or adjusted, using the criteria set forth below.

Code Compliance Investigators are responsible to review and, if necessary, propose revisions to Code Costs as presented in the Code Cost Determination Screen; however, revision of code costs is to be approved by the Section Manager or Code Compliance Investigator IV, or Planner IV. To reverse any code cost, simply enter a negative amount of time for the date in question and enter the wording listed under "*SCREEN ENTRY*" as appropriate.

See chart:

CRITERIA	ADJUSTMENT	SCREEN ENTRY
Complaint not valid	Reverse All Charges	<b>Complaint Not Valid</b>
Violation Resolved- No Red-Tag	Reverse All Charges	<b>Violation Resolved- No Red-Tag</b>
Change of Ownership Prior to Recordation	Reverse All Charges	<b>Change Of Ownership Prior To Recordation</b>
Duplicate Staff Entries	Reverse all charges due to staff reassignment or training	<b>Inappropriate Charge</b>
Communications with Complainant/Reporting Party	Reverse all charges	<b>Inappropriate Charge</b>
Costs in excess of Hearing Officer or Court Award	Reverse all charges accrued prior to decision	<b>Costs in Excess of Award</b>
Duplicate Costs Charged to At-Cost Agreement and Code Screen	Reverse Duplicate Charge	<b>Duplicate Charge</b>
Protest Meeting	Reverse Charges to prepare for or attend Protest meeting	<b>Inappropriate Charge</b>

Any situation in which a revision to Code Costs is appropriate but not addressed by these policies is to be brought to my attention.