

CITY OF FORT LAUDERDALE

OFFICE OF THE CITY AUDITOR

Follow-Up review of the Code Enforcement Division (#07/08-10)

Report #10/11-04

September 12, 2011



Memorandum

Memorandum No: 11/12-02

Date: October 6, 2011

To: Honorable Mayor and Commissioners

From: John Herbst, CPA, CGFO
City Auditor

Re: **Code Enforcement Division - Follow-up Review**

In accordance with our audit workplan, we have performed a final follow-up review of our *Audit of the Code Enforcement Division (Report #07/08-10)*. Our review was conducted in accordance with government auditing standards. Review procedures consist of staff inquiries and limited analysis of documentation provided by management. We did not perform substantial tests of evidence supporting the responses from staff responsible for resolving audit findings and recommendations.

City administration has the ultimate fiduciary responsibility to make sure that all known operational deficiencies are addressed and to manage public resources in the most efficient manner. According to the Comptroller General of United States:

Audit recommendations are well researched solutions to deficiencies noticed during the audit. Implementation of recommendations results in improvements in processes and controls. Not implementing recommendations allows the known deficiencies to continue resulting in waste or operational inefficiencies.

In our initial report, we made twelve recommendations. Of these, we are pleased to note that ten have been implemented. Of the remaining two, Finding 1.4 (page 3) is being addressed again in our pending *Audit of the Code Enforcement Lien Process*, and Finding 1.5 (page 4), while still open, is not considered to pose a significant risk to the City. Based on the above, we consider this audit closed and no further follow-up is required.

A detailed schedule of the findings, recommendations, and current status is included in the attached report.

Attachment(s)

cc: Lee R. Feldman, City Manager
Harry A. Stewart, City Attorney
Jonda K. Joseph, City Clerk
Stanley D. Hawthorne, Assistant City Manager
Susanne M. Torriente, Assistant City Manager
Greg Brewton, Sustainable Development Director

Finding- 1.1

Finding/Condition- CED is not participating in the Florida Department of Revenue's (DOR) "Registrant Information Sharing Exchange" (RISE) program. The City is not taking advantage of a valuable opportunity to help identify businesses that may be operating in the City limits without a Business Tax receipt. CED has not performed a match comparison between CFL's Business Tax master file and DOR's file of sales tax registrants in the City.

Auditor Recommendation- The City Manager should require the Director of the Building Department to enroll in DOR's RISE program and develop a procedure to perform a quarterly match comparison between DOR's Sales Tax Registrant file and the City's business tax master file.

Management Response- The Department will explore enrolling in DOR's RISE program and if found to be workable will set up procedures within 120 days for the purpose of matching the City's business tax master file to DOR's Sales Tax Registrant file.

Follow-Up Action – Code Enforcement determined that after consulting with other cities the RISE program would not be cost effective.

Status –CLOSED

Finding- 1.2

Finding/Condition- CED is not in compliance with the City's PSM "City Driver Policy" #6.16.1, as CED supervisors have not performed an annual visual inspection of each employee's driver's license.

Auditor Recommendation- We recommend that the City Manager require the Director of the Building Department to develop an annual plan to verify compliance with the City's PSM "City Driver Policy" #6.16.1 section 3-G. Supervisors can easily determine if an employee has a valid driver's license by checking website <https://www6.hsmv.state.fl.us/dlcheck/dlchecking>. CED can also request a historical abstract of an employee's driving record to check for infractions for a minimal cost: \$2.10 - 3 years, or \$3.10 - 7 years or complete history.

Management Response- Within 60 days the Division will implement a policy requiring, on an annual basis, verification of employee's driver's license for validity and review of driving records.

Follow-Up Action – Code Enforcement provided the CAO with a written policy entitled "Driver License Annual Review", which is reviewed biennially (May 2009 and August 2011).

Additionally, Code Enforcement conducted annual reviews of employee driver licenses, which were verified by the CAO for June 2010 and August 2011.

Status - CLOSED

Finding- 1.3

Finding/Condition- The way the City's PSM #6.16.1, "City Driver Policy" is currently written focuses on the accumulation of points. Points can be avoided by attending driver improvement school. The risks associated with an employee should be based on the number of infractions committed in their driving history, not just accumulated points.

Section 3-F of the PSM states:

If an employee's driving record reveals any of the following convictions or cases pending, a review will be conducted to determine if the employee will retain his/her authorization to drive City vehicles or to drive his/her own vehicle on City business.

- (1) RD (reckless driving) two counts within a twelve-month period
- (2) H&R (hit and run).
- (3) FEL/veh (felony using a vehicle).
- (4) AUM/AUP (allowing unauthorized minor/person to drive)
- (5) VH (vehicle homicide)
- (6) OLF (obtained license fraudulently)
- (7) "The accumulation of eight or more points on his/her driver's license within the past 12 months which are the result of having been cited as being at fault in vehicle accidents."

Auditor Recommendation- The City Manager should require the Director of Human Resources to add item (8) below in bold to the language in the PSM "City Drivers Policy" #6.16.1 section 3-F as follows:

If an employee's driving record reveals any of the following convictions or cases pending, a review will be conducted to determine if the employee will retain his/her authorization to drive City vehicles or to drive his/her own vehicle on City business.....

- (8) The accumulation of three (3) driving infractions on his/her driver's license within the past 18 months for which the employee was convicted of, or entered a plea of guilty, nolo contendere, or no contest to. This would also apply in cases where the court withheld adjudication so there was no record of conviction.**

Furthermore, PSM #8.1.1 "Usage of City Motor Vehicles" also needs to be revised to reflect the oversight outlined above.

Management Response- Management concurs with Recommendation 3.

Follow-Up Action – The Human Resources Department has included language recommended by the CAO in the published PSM #6.16.1 and PSM #8.1.1 (via reference) and both are reflected on the City of Fort Lauderdale intranet.

Status – CLOSED

Finding- 1.4

Finding/Condition- Community Plus has the ability to generate custom reports however; CED staff rarely use this functionality due to the lack of practical guidance materials. CED management personnel were given training on how to use Community Plus to generate custom reports but were not provided with a desk reference manual with step-by-step screenshots.

Auditor Recommendation- The City Manager should require the Director of the Building Department to provide training to key staff members in CED about how to generate reports from Community Plus. Along with the training, staff should be provided with a user manual with screenshots to maximize the effectiveness of the training.

Management Response- CED management currently utilizes numerous excel and crystal reports which extract data from Community Plus. Over the past year reports were developed in conjunction with IT to pull data from Community Plus on a regular basis to monitor performance goals, objectives and accountability for the division. Each report measures a specific performance or a process.

Generally reports directly available through Community Plus are not sufficient to meet division needs as they lack essential data. The exception to this is the Code Tracker, which supervisors will be trained on to pull data for their respective geographical areas.

Follow-Up Action – The Information Technology Department informed the CAO that the Community Plus system is used for storing and retrieving property information, but lacks the ability to produce location based reports; consequently, Code Tracker is only utilized to generate reports such as code cases initiated in a neighborhood or City Commission District.

Access to Code Tracker is limited to the Assistant CED Manager because of anomalies with the data and application. The GIS Manager indicated a concern as to whether Code

Enforcement staff would be able to identify such anomalies. Expanding the user base may lead to more issues, particularly with user frustration and even the dissemination of unreliable data.

Additionally, it was noted that the application is no longer supported by the software developer and has been identified as one, which the Information Technology Department will need to migrate into a web GIS application.

Status-OPEN

Finding- 1.5

Finding/Condition- CED does not have a procedure in place to assure periodic and consistent follow up on cases referred to the City Attorney's Office. We tested a random sample of cases from a lien foreclosure log and found that 4 out of 6 or 67% of the cases remained open for 450 days or more and follow-up actions and current status were not updated in Community Plus. CED staff asserted they routinely converse with the City Attorney's Office regarding these cases. However, we could not verify that this communication was actually occurring because it was not documented.

Auditor Recommendation- The City Manager should require the Director of the Building Department to establish a written procedure that ensures that cases referred to the City Attorney's Office are followed up on once a month. The notes in Community Plus should be revised for any changes since the last update and should always reflect the current status of the case.

Management Response- Within 60 days written policy will be implemented requiring updates every 60 days on cases referred to the City Attorney's Office recommending foreclosure action. The updates received will be entered into the case file in Community Plus.

Follow-Up Action – Code Enforcement provided a written policy entitled “Cases Referred To City Attorney's Office” which establishes responsibility, on a monthly basis, for reviewing a print out submitted to Code Enforcement by the City Attorney's Office concerning properties referred for possible foreclosure action.

However, Code Enforcement later indicated that such a policy requiring updates every 60 days from the City Attorney's Office regarding cases referred by Code Enforcement is problematic and believe that revisiting their original response is warranted.

The Code Enforcement Manager stated that, “The CAO [City Attorney's Office] is not under the Building Department and any policy implemented by us directing the CAO to do something would be misplaced in terms of holding us accountable.”

Auditor Rebuttal – The City Auditor's Office reiterates the prior recommendation and notes that communicating with the City Attorney's Office and documenting that conversation should not be as problematic as described.

Status - OPEN

Finding- 2.1

Finding/Condition- CED does not have a written policies and procedures manual. A fragmented assortment of memorandums gives procedural guidance to staff. These memorandums were developed on an ad hoc basis to address different concerns and could be improved by organizing them into a comprehensive policies and procedures manual.

Auditor Recommendation- The City Manager should require the Director of the Building Department to prepare a written policy and procedures manual to bring the various memoranda and directives together as an integrated whole.

Management Response- Management concurs and is in the process of incorporating previous division written policy, procedures and directives into one comprehensive manual. This change in format will require 120 days to complete in its entirety.

Follow-Up Action – Code Enforcement provided the CAO with copies of their two Policy and Procedures Manuals, established in January 2009. Further, the CAO verified Code Enforcement's master list evidencing that the individual procedures were reviewed on an annual basis.

Status- CLOSED

Finding- 2.2

Finding/Condition- CED does not have a structured operational plan to effectively monitor the quality of inspections performed by the field inspectors.

Auditor Recommendation- The City Manager should require the Director of the Building Department to develop a procedure that requires CED supervisors to periodically ride with their officers to observe and document the performance of field inspections to assure correct interpretation and application of CFL's code of ordinances. Periodic observation of the field inspection process by the supervisors will ensure consistency of enforcement through out the different areas/districts and serve as a quality control measure.

Management Response- Management concurs, implementing on 04-24-2009 a written directive requiring supervisor field audits of inspector cases and mandatory rides with inspectors as a quality control measure and to use as a performance evaluation tool.

Follow-Up Action – Code Enforcement provided the CAO with a written policy entitled “Audits and Accountability”, whereby supervisors are responsible for conducting random field audits of inspectors on a monthly basis. Code Enforcement indicated that this policy is currently under review and is subject to amendment, pending City reorganization.

Code Enforcement also provided evidence of the monthly supervisor inspections demonstrating implementation of the above-cited policy.

Status - CLOSED

Finding- 3.1

Finding/Condition- CED does not have written policies and procedures to require that contractor’s invoices for board ups and demolition work be verified for accuracy. We also noted that 4 out of 5 or 80% of the board up invoices and 6 out of 6 or 100% of the demolition invoices in our sample did not have evidence of supervisory review and approval. Additionally, CED does not require the square footage for a building that is to be demolished be reconciled to the square footage for the property in the Broward County Property Appraiser’s records.

Auditor Recommendation- The City Manager should require the Director of the Building Department to establish a written procedure to verify the accuracy of contractor invoices including a reconciliation procedure to tie the square footage invoiced by the demolition contractor with the square footage indicated in the Broward County Property Appraiser's public records. Furthermore, each invoice should require the signature or initials of the reviewer.

Management Response- Management concurs and within 60 days will implement a procedure of quality control to verify the accuracy of contractor invoices and accuracy of square footage submitted.

Follow-Up Action – Code Enforcement provided the CAO with a written policy, reviewed biennially, entitled “Supervisory Review of Vendors Invoices” requiring the City inspector to verify the accuracy of the square footage with the Broward County Property Appraiser.

The CAO also reviewed copies of approved invoices and no deficiencies were noted.

Status - CLOSED

Finding- 3.2

Finding/Condition- CED does not have a written procedure that prescribes escalated fines for recurring violations at the same site. In addition, the division has not established a registration program for vacant properties.

Auditor Recommendation- We recommend that the City Manager require the Director of the Building Department:

- 1) To establish a escalated structure of fines for recurring offenders and incorporate these changes into the City's Code of Ordinances and,
- 2) To establish a registration fee program for vacant properties.

Management Response- Recommendation number 1 has been accomplished through the recent revision of Chapter 11, which provides provisions for increased fines for repeat violators. Under Division 3 of Chapter 11 repeat violators may be fined up to \$1000.00 per day and under Division 4 repeat violator fines are doubled up to \$500.00, which is the maximum allowed for a civil penalty. In addition, the new ordinance holds recurring violators accountable even if such violators comply before a hearing.

Management concurs with recommendation number 2 and has submitted a draft to the City Attorney's Office of an ordinance requiring a registration fee for vacant properties.

Follow-Up Action – Code Enforcement provided the CAO with the following:

- 1) Chapter 11, Ordinance #C-08-36, Sec.11-12(c), which states that the board or special magistrate may issue an order requiring the violator to pay a fine not to exceed \$500 per day for each day that the violation continues past the date set by the board or special magistrate for compliance. The board or special magistrate may also issue an order requiring a repeat violator to pay a fine not to exceed \$1,000 per day for each day the repeat violation occurs. If the board or special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$15,000 per violation.
- 2) Commission Agenda Report #09-0921 amending the nuisance Ordinance #C-09-18, which was proposed as an alternate to creating a vacant property registration Ordinance. This action was taken after Code Enforcement consulted with the City Attorney's Office. The City Attorney's Office and Code Enforcement mutually determined that such a registration ordinance would not result in a higher compliance rate for blighted properties.

Status -CLOSED

Finding- 4.1

Finding/Condition- CED does not have a written procedure to require that liens be perfected/filed in the public records of the County within 30 days of the imposition of an order by the Code Enforcement Board, Special Magistrate, or a City Commission resolution approving a hard cost lien. Our testing of liens revealed that 7 out of 30 or 24% cases were not recorded in the public records within 30 days.

Auditor Recommendation- The City Manager should require the Director of the Building Department to formalize the current CED informal practices and develop written procedures regarding the timeline for recording a lien in the Broward County Public Records. In addition, the actual time to record a lien should be periodically monitored to ensure that liens are actually recorded within the 30 day prescribed timeline.

Management Response- Management concurs with recommendation 10:

- 1) Written procedures will be developed within 60 days to formalize a division goal of recording liens resulting from code enforcement board and special magistrate orders within 30 days of hearings.
- 2) Procedures will be developed within 60 days to ensure timely recording of lot clearing liens, board up liens and demolition liens.

Follow-Up Action – Code Enforcement provided the CAO with a written policy, reviewed annually and entitled “Recording of Code Enforcement Liens”, which states:

“Orders imposing fines/liens on properties in violation shall be recorded in the Broward County Public Records within 30 days of such orders being signed into effect by the chairperson of the Code Enforcement Board or Special Magistrate.”

The policy serves to create a timeline for recording lot clearing, board-up and demolition liens. The CAO verified implementation of the policy via review of Commission Agenda Reports (see also Finding 4.3).

Status - CLOSED

Finding- 4.2

Finding/Condition- CED does not have a written policy to require that photos of a violation be taken during the initial inspection and again when the property has

been brought back into compliance. Their informal practices require photos of the violation if the case is going to be presented before the CEB of SM¹. However, CAO testing of this assertion revealed that 3 out of 15 or 20% of these cases did not have the required photos in the file.

Auditor Recommendation- The City Manager should require the Director of the Building Department to develop a policy to require that code enforcement officers take a before and after picture showing the initial violation and evidence that the property has been brought back into compliance, thus supporting their conclusions for closing the case. These pictures, along with the case documentation should be filed in the respective case file and electronically attached in Community Plus.

Management Response- Management believes that requiring photos of all violations is problematic in that it will negatively impact productivity due to the lengthy period of time required by the inspectors to download photos and attach to cases. Requiring photos of all violations and compliance resulting from such cases would increase the number of photos taken by approximately 700% and would not necessarily prove or disprove compliance.

The CED believes the current policy of requiring photos of violations when formal enforcement begins is sufficient. However, we are in agreement and will implement a written policy that compliance photos are taken once formal enforcement action is initiated. There is also a current policy of requiring photos regarding bulk trash violations. We will also implement a policy requiring photos involving City costs or City abatement of violations (red tagging of derelict vehicles to be towed, lot clearing, boarding up of structures etc.). Within 30 days a written directive will be completed tying in all of the above scenarios where inspection photos will be required.

In terms of quality control, GPS reports can verify if inspections have been conducted as well as the previously mentioned implementation of field audits by supervisors to monitor inspections

Follow-Up Action – Code Enforcement provided the CAO with a written policy, reviewed annually, entitled “Photos for Code Enforcement” outlining inspection photo requirements.

The CAO also reviewed a sample of photos taken during FY 2010/2011 and attached to case files in Community Plus to verify implementation of the policy.

Status – CLOSED

¹ CEB = Code Enforcement Board and SM = Special Magistrate. Both are quasi-judicial bodies that conduct hearings and adjudicate violations of the City's Code of Ordinances or the Florida Building Code.

Finding- 4.3

Finding/Condition- CED does not have written procedures to prescribe an appropriate timeline specifying when a request to impose a cost recovery (i.e. hard lien) should be brought to the City Commission for approval (the CAO noted that these cases are not adjudicated by the CEB or SM). Furthermore, CED does not have an operational practice to effectively monitor when one of these cases should be brought before the City Commission for approval. The CAO determined that it took the CED an average of 111 days to get Commission approval to impose a hard lien for lot clearing work completed by public works staff. There were two outliers where it took 134 and 235 days respectively.

Auditor Recommendation- The City Manager should require the Director of the Building Department to develop a written procedure that prescribes a reasonable timeline to present these types of cases to the City Commission to assure that hard cost lien cases are processed in a timely manner.

Management Response- Management concurs and will implement a written policy within 60 days regarding reasonable time periods in which hard cost liens resulting from abatement (lot clearing, demolitions) are presented before the city commission.

Follow-Up Action – Code Enforcement provided the CAO with a written policy entitled “Recording of Code Enforcement Liens”, which provides, “Orders imposing fines/liens on properties in violation shall be recorded in the Broward County Public Records within 30 days of such orders being signed into effect by the chairperson of the Code Enforcement Board or Special Magistrate.” (See also Finding 4.1 above).

Status - CLOSED