



**City of Portland, Oregon**

**BUREAU OF  
DEVELOPMENT  
SERVICES**

**Report on Program Improvements: Neighborhood Inspections and  
Code Enforcement**

**January 22, 2003**

## **Background**

Over the past year, and particularly since the beginning of the current fiscal year, concerns have been raised about the use of code enforcement fees, the clarity of information available to property owners about ways to resolve enforcement cases, and perceptions about the effects of code enforcement fees on good customer service. Historically, the Neighborhood Inspections Program, which administers the City's Property Maintenance Code [Title 29] has been a general fund activity. The city's efforts in preserving existing housing through a complaint driven enforcement process date back to 1914.

Over the past fifteen years, resources from the General Fund have been restricted through a number of tax measures and as the demand for many city services has risen. Property maintenance, while a key effort toward neighborhood livability, is clearly not a high priority service like Police, Fire, Planning or Parks. Work began in the mid 1980's to identify other sources for funding this program. Proposals for routine inspection of all rental housing and a required pre-sale inspection for home sales were made in about 1987. These were seen as efforts to encourage regular maintenance of rental and owner occupied housing and to support that work through fees. Due to opposition from the real estate and apartment owners groups, neither of these programs was adopted.

In 1988 and 1989, when the economy lead to the abandonment of a significant number of rental properties in Portland, a Citizen Advisory Committee for Quality Rental Housing was appointed by Commissioner Bogle to look at ways to provide for inspection of unmaintained properties and provide a means of financial support for this work. The work of that committee led to the adoption of code enforcement fees, implementing the notion that "those who violate the city code should pay the cost of enforcement." There was also strong support from neighborhood representatives that some property owners needed a financial penalty to encourage them to keep up their property.

During the 1990's, the code enforcement fee was found to be a factor in encouraging owners to correct code violations more promptly. It also resulted in a growing revenue source, supplementing the general fund support for Neighborhood Inspections. Over the course of the past two years, however, that general fund support for the program has been reduced and then eliminated as the City Council struggled to maintain vital city services. For FY 02-03 the program budget was reduced, the general fund support was eliminated and the budget was balanced with the assumption that higher code enforcement fees and revenue from the foreclosure of liens from outstanding unpaid fees would make up the difference.

While the code enforcement fees have been an incentive to most property owners to correct their violation cases, some owners have not done so and they have struggled with an increasing lien on their property. Attempts to address individual cases have raised questions about how to be lenient and yet maintain some consistency in program operations and how to insure adequate funding to keep the program solvent.

The following portions of this report describe efforts being undertaken by Bureau of Development Services staff to address customer concerns without any change in the budget or revenues for the program.

## **Customer Assistance Team**

Many enforcement cases involve violations of multiple codes or require actions through more than one section of the bureau to correct the violation and close the case. For instance, a case may have violations of the housing code with accumulation of garage on the site and lack of garbage service which constitute multiple violations. Correction of the housing problems may require preparation of plans and issuance of a building permit. If the housing violations are the result of previous work done without the proper permits, there may also be building code and zoning issues.

The Customer Assistance Team (CAT) was conceived as a way of bringing all of the appropriate staff together to work jointly on the case. The CAT consists of appointed contacts from each section in the bureau who are available to meet on an emergency, case-by-case basis to assist customers with resolving multiple types of permit problems. Referrals to the Customer Assistance Team come from the Mayor's Office, Ombudsman's Office and customer inquiries received directly by the bureau.

Prior to each Customer Assistance Meeting, an agenda is developed identifying the subject, required attendees, case summary and expected outcomes of the meeting. Staff in the Director's Office coordinate CAT meetings, act as the single point of contact between the bureau and the customer, and insure the customer receives clear and concise direction for resolving their permit issues.

The CAT coordinator is tracking each of the cases considered by the Customer Assistance Team in order to identify trends or commonalities which can be used to revise our enforcement efforts. Following is a list of cases that have been reviewed by the Customer Assistance Team including a summary of the case, the expected outcome of the meeting and resolution reached as a result of the meeting.

## Summary of Customer Assistance Team Cases

Address	Case Summary	Expected Outcome	Resolution
SE Harold St.	Open Housing case for derelict property and Code Compliance case for addition of a second story without permit.	Establish clear communication between Housing, Combination Inspections and Code Compliance. Review open violation cases. Provide clear direction to the property owner for resolving the violation cases.	Housing case should have been closed when Code Compliance case opened. Closed Housing case and reduced lien from \$4,456.79 to \$2,613.38. Letter to property owner providing clear direction for closing Code Compliance case. Owner is proceeding toward final inspection on the addition.
SE 56 <sup>th</sup> Ave	Open Housing case on property. Owner was proceeding with correcting violations. Combination Inspections issued stop work order during routine inspections for creation of an illegal triplex.	Establish clear communication between Housing and Combination Inspections on status of Housing case and permit inspections. Establish how to lift stop work order so owner can proceed with corrections. Confirm legal use of property.	Property established as legal duplex after property owner supplied plan for art studio. Stop work order lifted. Final electrical and plumbing inspections were approved by Combination Inspections. Housing inspector did final inspection and closed the Housing case.
SW Capitol Hwy	Purchased property with open Housing, Dangerous Building and Code Compliance cases. Work without permits done by previous owner.	Establish clear communication between Housing, Code Compliance and Commercial Inspections. Provide status on each open case. Identify and give clear direction to property owner on requirements for legalizing property and closing violation cases.	Letter to property owner summarizing violation cases, how to resolve them and identifying point of contact. Housing and Dangerous Building cases closed quickly. Change of Occupancy near approval to resolve Code Compliance case.
N Willamette Blvd.	Contractor performed work without permit in the early 1990's. Needed to legalize addition of dormer windows and front porch deck under permit to close Code Compliance case.	Provide clear direction to the property owner about inspector's requirements for inspecting work without permit and how to resolve the violations and get case closed.	Established a point of contact for the property owner to review inspection requirements and violations with. Letter to owner outlining how to resolve the violation case.
SW View Point Terrace	Construction plans did not match what was constructed at the site, so the Combination Inspector could not approve foundation inspection. Customer needed assistance with moving forward with the project.	Establish clear communication between Plan Review and Combination Inspections. Compare approved plans with work at the site. Provide clear direction to the property owner and contractor for moving forward.	Approved plans showed foundation wall missing at the site. Available options included: constructing to match the plans or meeting with Senior Plan Reviewer at BDS to get revised plans approved and request final foundation inspection. Contractor met with reviewer and revised plans were approved.
SE Division St.	Purchased property with pre-existing code violations for remodeling without permits. Owner purchased permits, but requirements for getting approval on illegal work were unclear.	Identify options for the property owner to legalize the remodeling according to his goals for the property. Provide the owner with clear direction on how to obtain permits, approvals and get the Housing case closed.	Renovation waiver of enforcement fees in place until May 2003. Letter to owner outlining options for legalizing work and getting permit approval. Established point of contact for the property owner to work with on obtaining permits and approvals.
SW Woods St.	Converted SFR to a duplex in 1992, but was unaware she didn't have a final inspection approval. Was cited for building a deck without permits and illegal duplex since a zoning change prevented multi-family there.	Establish clear communication between Combination, Zoning and Code Compliance. Provide clear direction to property owner on how to resolve work without permit issues and avoid enforcement penalties.	Zoning approved duplex use since there was an active construction permit in 1992. Combination can do a final inspection on the 1992 permit for the conversion. Zoning provided options for legalizing the deck without design review. Letter to property owner outlining options for resolving work without permit issues.

## **Criteria for Reviewing Lien Reduction Requests**

In recent months, the bureau has received a number of requests from the Ombudsman's Office to review the reasonableness of liens assessed against properties for violations of the City's Property Maintenance and Zoning codes. In a number of the cases, a reduction in the lien or its removal has been authorized after a comprehensive review of the case. Given the increasing number of requests we are receiving, BDS has implemented a trial run of a new process to evaluate lien reduction requests in a consistent, equitable and efficient manner.

Each request and referral is reviewed by staff in the Director's Office in detail to determine if an error has occurred in our enforcement process. The Neighborhood Inspections Program has always had a process for considering elimination or reduction of fees and liens when an error was made. We have made appropriate lien reductions when errors have been discovered, and will continue to do so. However, the more recent requests from the Ombudsman's Office have been requests, not based on an error, but rather consideration that the resulting liens were too burdensome for the owner. In addition to reviewing each case for accuracy, we have established criteria for reviewing each request to determine if justifying factors exist for a reduction in the lien.

In developing a process for considering the burden to the owner or the proportionality of the increasing fees when the owner does not take action, bureau staff are recommending that one or more of the following factors should be present as a justification for reduction of existing liens:

- The property in question is the citizen's primary residence, not a rental property.
- There is evidence of progress to comply with the requirements of Title 29 and/or Title 33.
- There are mitigating circumstances (i.e. illness, unforeseen financial hardship, etc.) that prevented the citizen from complying with the requirements, resulting in a lien.
- Health and Life safety violations have been resolved.

Consideration of lien reductions under this approach is being done as a pilot test. This process will be reviewed after 90 days have passed to evaluate the effectiveness of using the criteria listed above to review code enforcement fee lien reduction requests. Evaluation of the test will examine the range of circumstances identified as mitigating circumstances, the types of violations remaining after health and life safety concerns are addressed, and the amount of lost revenue from reduction of liens. We also try to get feedback from property owners about their plans to complete the needed home repairs or property clean ups and their experience in working with staff to plan for such actions.

Listed on the next page are cases the bureau has recently evaluated using the criteria noted above.

## Summary of Lien Reduction Requests

Constituent	Request	Factors	Determination
NW Third Ave.	Owned two properties that were dangerous buildings. The lien on one was cancelled because of an exception to the derelict provision for certain downtown buildings. Owner assumed both liens had been cancelled.	Different policies concerning the buildings may have been confusing. Owner spent a considerable amount of money improving the property.	Bureau accepted owner's offer to pay amount owed at the time the case was closed and reduced our charges from \$3,660.21 to \$1,472.44
SE 111 <sup>th</sup> Ave.	Reduction in the lien amount because owner purchased a house on the State's drug lab list and the previous owner did not disclose this violation. A large lien accrued while they worked to resolve this through the legal system.	Owner was granted low-income waiver in error because a drug lab is a life/safety issue. Owner had a vested interest in receiving a one-year extension of the waiver. Owner unable to resolve situation with seller through the legal system.	Removed one year's worth of enforcement fees in the amount of \$1,716.00 and removed all interest that accrued on the balance of the lien in the amount of \$1,643.97 for a total reduction of \$3,359.97.
NE Dekum St.	Reduction in the lien amount because owner made progress to correct all violations until a gas leak occurred and required her to vacate the property until she could afford to fix it.	Made significant progress to correct the violations during the time her low-income waiver was in place, until the gas leak occurred. Property remained vacant until the housing case was closed.	Cancelled lien in the amount of \$8158.49.
NE 16 <sup>th</sup> Ave.	Reduction in the lien amount because owner was unaware of housing violations until property was awarded to her in divorce proceedings. Corrections were made promptly.	Made significant progress to correct violations at her primary residence once she learned of their existence. One minor violation kept case open longer than expected.	Reduced lien amount from \$4,022.79 to \$586.15, which was the balance on the lien at the time the majority of the violations were corrected.
N Michigan Ave.	Reduction in the lien because owner is disabled and unable to correct housing violations. Cannot live in the house because utilities are shut off for non-payment. Has no income and lives in a truck away from the property.	Review of the case determined that owner could have qualified for a low-income waiver when he applied. Inspectors have been unable to make contact with the owner to discuss the case because he lives away from the property.	Cancelled lien in the amount of \$2,326.15. Granted waiver of enforcement fees for six months. Waiver will be reviewed after six months. Inspector will continue his efforts to contact owner to meet at the property to review the case.
SE Tenino Ct.	Reduction in the lien for the period of time owner was incarcerated because notices and bills for housing violations did not reach him in prison. Applied for a low-income waiver and was denied.	Waiver was denied because fire, life safety issues were not corrected until the case was closed. Significant contact was made with the owner's representatives. Six more violation cases have been opened on the property since case in question.	No basis for a reduction in the lien.
N Vancouver Ave.	Reduction in lien because owner purchased foreclosure property with liens and violations. Encountered work by previous owner without permits. Time to close housing case took longer than expected.	As a new owner, she would qualify for new owner grace period under current program.	Reduced lien amount to reflect new owner grace period from \$2728.38 to \$2,209.10.

## **Waivers to Code Enforcement Fees**

Section 29.60.100 authorizes the Director of the Bureau of Development Services (BDS) to adopt exceptions. The Individual Owner Waivers have been adopted by the bureau as exceptions to Code Enforcement Fees and are designed to prevent these fees from causing undue hardship to property owners. The purpose of the Individual Owner Waivers is to assist property owners in complying with the requirements of Title 29 by suspending monthly Code Enforcement Fees for a specified period of time. Property owners that meet the waiver criteria are granted additional time to meet the requirements without enforcement penalties.

Although waivers for Code Enforcement Fees have been available since 1992, concerns have been raised about how bureau staff make owners aware of their availability and whether the waivers also support the efforts of persons who knowingly purchase derelict properties with the intent of rehabilitating them. Are they penalized by the existence of an enforcement case caused by a prior owner?

To respond to these concerns, bureau staff have examined the existing waivers and looked at how to provide an incentive for the new owner who clearly intends to improve a derelict property. Based on this review, staff have revised the waivers and are in the process of designing a handout outlining the different types of waivers available to property owners. The intent is to distribute this new handout with all Notices of Violation mailed to property owners.

Some general information about the Individual Owner Waivers:

- Waivers are not granted automatically; it is necessary for the property owner to apply and meet all the requirements.
- There is no application fee for the Individual Owner Waivers.
- A waiver does not cancel Code Enforcement Fees previously assessed in a housing case. Therefore, it is imperative that customers be made aware of the different types of waivers available and apply as early as possible.
- Waivers are not granted retroactively on closed cases and are not transferable.
- The waiver allows Code Enforcement Fees to be suspended during the length of time the waiver is in effect.
- If the waiver is cancelled for any reason, it cannot be reactivated. A cancellation letter will be mailed to the owner and monthly code Enforcement Fees will start with the next billing cycle after the cancellation.

Listed below are the types of existing Individual Owner Waivers available and the conditions for each. In addition, a New Owner Grace Period is being developed and staff are working with the Auditor’s office to improve our ability to identify new owners quickly and automatically extend this waiver to them. The New Owner Grace Period is described further in this report. All available waivers will be described in the new handout.

	<b><i>Income-Based Hardship</i></b>	<b><i>Renovation</i></b>	<b><i>Paint and Roof</i></b>	<b><i>Dangerous Building</i></b>
<b><i>Eligibility</i></b>	Owner is low income and property is primary residence	Owner is working to renovate property	Time of year and weather prevent starting and completion of roof repair or exterior painting	Building has been declared dangerous by BDS
<b><i>Income</i></b>	Owner income less than 80% of median	N/A	N/A	N/A
<b><i>Building Type</i></b>	One and two family dwelling	One and Two Family Dwelling before & after renovation	One and two family dwelling	One and two family dwelling
<b><i>Effort to Correct violations</i></b>	N/A	Permits for value of at least \$15,000	N/A	Permits for value of at least \$15,000
<b><i>Conditions</i></b>	N/A	House on permanent foundation	All other violations must be corrected	Signed Stipulated Agreement with dates for correction of violations; no Code Hearings Officer orders
<b><i>Occupancy</i></b>	Allowed for owner if no Fire and Life Safety violations; rental unit must be vacant	Allowed for owner if no Fire and Life Safety violations; rental unit must be vacant	Allowed	Not allowed
<b><i>Other Violations</i></b>	N/A	No other open violation cases	N/A	N/A
<b><i>Cancellation</i></b>	Waiver cancelled if rental property occupied, new violations occur or work done without required permits	Waiver cancelled if rental property occupied, new violations occur or work done without required permits	Waiver cancelled if rental property occupied, new violations occur or work done without required permits	Waiver cancelled if rental property occupied, new violations occur or work done without required permits
<b><i>Renewal</i></b>	Allowed if eligibility remains and request is made 30 days prior to expiration	Not available	Not available	N/A
<b><i>Length of Waiver</i></b>	Twelve [12] months from date application is received	Nine [9] months from date application is received	N/A	Nine [9] months from date of application and signing of Stipulated Agreement

## **New Owner Grace Period**

Under the existing waivers, no exception to code enforcement fees and the status of outstanding violations was provided for the person wishing to rehabilitate an existing property in a derelict state. The Bureau of Development Services is in the process of implementing a New Owner Grace Period, which will become effective February 1, 2003.

Currently, when the sale of such a property takes place, the existing liens are paid through escrow. However, the violation case remains open and active and new fees are assessed upon the property. Under the new approach, when liens are paid off and a new owner purchases property, the new owner will have 30 days to fix any outstanding violations without the assessment of code enforcement fees. If 30 days elapse and the violations are not corrected, the new owner will be billed code enforcement fees at the regular rate, not the double rate, for the next five billing cycles.

Currently, several months may pass before new property owners are informed about existing violation cases and code enforcement fees because of delays at Multnomah County in getting new owner information recorded. However, title companies call the Auditor's Office to get payoff quotes on lien balances owed and then send a final check for the payoff amount to satisfy the outstanding lien amount. When such a request is made, the Auditor's Office will require the title companies to provide them with the new owner's name, address, and a copy of the recorded deed when they send the final check. The Auditor's Office will furnish this information to the Bureau of Development Services as it becomes available and the bureau will automatically extend the New Owner Grace Period to the new property owner. If the property requires extensive remodeling to improve it and resolve the open violation case, the purchaser may also take advantage of the renovation waiver.

Information will be mailed to the new owner about their qualification for the grace period even though it is granted automatically upon notification from the Auditor's office. Our intent is to contact new owners in a timely manner, providing them with information on outstanding violation cases and how to resolve them, as well as allow the new owner time to resolve the violations without the assessment of code enforcement fees. These waiver policies will also be posted on the BDS website.

## **Next Steps**

We are currently in the process of developing the informational handout designed to inform the public of available waivers and exceptions to code enforcement fees. Upon completion, the bureau intends to distribute the new handout with all Notices of Violation mailed to property owners concerning housing cases.

BDS staff are closely monitoring lien reduction requests and Customer Assistance Team activity using the approaches described earlier in this report. An updated report evaluating the effectiveness of these programs will be available on March 20, 2003.