

**CODE ENFORCEMENT AND BUSINESS TAX
CODE ENFORCEMENT
AUDIT 10-04
JUNE 25, 2010**



CITY OF TAMPA

Pam Iorio, Mayor

Internal Audit Department

Roger Strout, Internal Audit Director

June 25, 2010

Honorable Pam Iorio
Mayor, City of Tampa
1 City Hall Plaza
Tampa, Florida

RE: Code Enforcement and Business Tax – Code Enforcement, Audit 10-04

Dear Mayor Iorio:

Attached is the Internal Audit Department's report on Code Enforcement.

The Code Enforcement Division has already taken positive actions in response to our recommendations. We thank the management and staff of the Code Enforcement and Business Tax Department for their cooperation and assistance during this audit.

Sincerely,

/s/ Roger Stout

Roger Strout
Internal Audit Director

cc: Darrell Smith, Chief of Staff
Bonnie Wise, Chief Financial Officer
Jake Slater, Director of Code Enforcement and Business Tax
Cynthia Miller, Director of Growth Management and Development Services

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/s/ Vivian N Walker

Auditor

/s/ Roger A. Strout

Audit Director

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BACKGROUND

The Code Enforcement Department is responsible for enforcing the following City Codes:

- Chapter 19 – Property Maintenance and Structural Standards
- Chapter 20.5 – Signs
- Chapter 23.5 – Supplemental Enforcement Procedures, and
- Chapter 27 – Zoning

Infractions include, but are not limited to: zoning violations, overgrown lots or yards, inoperative vehicles, maintenance of structures, illegal signs, public nuisances, and anything else that may affect the quality of life within the boundaries of the City.

The department has partnered with the 13th Judicial Circuit Court to create a criminal code court to deal with the most egregious violators in an effort to achieve code compliance from public nuisance violators. In March 2008, the City of Tampa implemented the Civil Citation Program; however it was not fully operational until June 2009. This program is used as a means to enforce the City's ordinances and City Code when neither the Code Board nor the criminal court system is an effective method. Civil Citation cases are heard once a month by a Special Magistrate in the Hillsborough County Court system.

STATEMENT OF OBJECTIVES

This audit was conducted in accordance with the Internal Audit Department's FY10 Audit Agenda. The objectives of this audit were to ensure that:

1. Code violation complaints received were resolved according to the guidelines and in a timely manner.
2. Code violations were properly documented and supported.
3. Abatement¹ of violations processed was appropriate based on the established criteria. Additionally, properties were liened and any re-captured expenditures from the property owner were deposited into the trust fund.
4. Code violation fines assessed and timeline for compliance/collection was consistent based on violation type.

¹ Abatement refers to the correction of a violation by the City of Tampa that had been cited against the property but had not been corrected by the owner or person in control of the property.

STATEMENT OF SCOPE

The audit period covered Code Enforcement program activity for the period from May 1, 2008, through November 30, 2009. Source documentation was obtained from the Code Enforcement Department record files. Original records as well as copies were used as evidence and verified through physical examination.

STATEMENT OF METHODOLOGY

Code Enforcement case files were selected using software known as Automated Command Language (ACL). This software allowed a 100% review of data generated during the audit time period. ACL was also used to select any sampling required using the criteria of 95% confidence level, 10% upper error limit, 5% expected error rate.

STATEMENT OF AUDITING STANDARDS

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT CONCLUSIONS

Based upon the test work performed and the audit findings noted below, we conclude that:

1. Code violation complaints received were resolved according to the guidelines and in a timely manner.
2. Code violations were properly documented and supported.
3. Abatement of violations processed was appropriate based on the established criteria; however, documentation was not always retained to support the abatement. Additionally, when properties were liened any re-captured expenses from the property owner were deposited into the City's General Fund instead of the City Code required trust fund.
4. Consistency of code violation fines assessed and timeline for compliance/collection could not be evaluated due to the significant latitude given to the Hearing Master.

While the findings discussed below may not, individually or in the aggregate, significantly impair the operations of Code Enforcement & Business Tax, they do present risks that can be more effectively controlled. Before we completed our audit, Code Enforcement & Business Tax personnel implemented some of the Internal Audit Department's recommendations.

PUBLIC NUISANCE ABATEMENT TRUST FUND

AUDIT ISSUE

The trust fund has never been created as required by Chapter 19 of the City Code.

OBSERVATIONS

A discussion with Code Enforcement Management indicated that Chapter 19 of the City Code was to have been revised to remove the section relating to the Trust Fund. However, the section is still included and current Code Enforcement management stated the funds collected were being deposited into the City's General Fund, not the Trust Fund.

CRITERIA

City Code Chapter 19 Section 107 - establishes an interest bearing public nuisance abatement program trust fund for the "deposit, maintenance and distribution of any funds collected or expended as a result of the public nuisance abatement program."

RISK DESCRIPTION

Non-compliance with the City Code requirement of establishing a Trust Fund in order to ensure tracking and recovery of funds expended for the abatement program.

RECOMMENDATION 1

Management should confirm with the Legal Department whether or not this fund is required. If it is determined to be invalid, the section referenced in Chapter 19 should be removed. However, if it is valid, appropriate actions should be taken to establish the Trust Fund and comply with the requirements of the City Code.

MANAGEMENT'S RESPONSE

Legal is in the process of revising Chapter 19 and this issue will be addressed.

COMPLY SYSTEM ACCESS

AUDIT ISSUE

The Code Enforcement Department currently does not maintain documentation of users with inquire only access to the COMPLY system.

OBSERVATIONS

The Code Enforcement Department uses a system known as COMPLY in order to process and track code violations. A list of individuals with access to the COMPLY system was requested from the Code Enforcement Department. The only information available for users with access, which permitted inquiry only, was the department name.

Also, there is a separate computer maintained as the "back-up" in the event the Department's current computer becomes inoperable. However, there was no documentation of periodically testing the back-up computer to ensure its operability, should it be required.

CRITERIA

Safeguarding of assets (COMPLY data) requires that anyone with access to the COMPLY system should be identified and their required access be periodically reviewed and monitored for appropriateness.

To help ensure the ability to continue operations, the "back-up" computer should be periodically tested.

RISK DESCRIPTION

Without periodic reviews of the COMPLY system's user list, unauthorized or inappropriate access could occur undetected.

RECOMMENDATION 2

Code Enforcement Department should maintain an accurate list of all individuals with access to the COMPLY system. Additionally, periodically, the users with access should be re-evaluated for appropriateness based on business requirements.

MANAGEMENT'S RESPONSE

We agree and will develop the accurate list and will establish a procedure to review all users and to revoke access for unauthorized users.

ABATEMENT DOCUMENTATION

AUDIT ISSUE

The documentation supporting abatement of properties by the City of Tampa needs improvement.

OBSERVATIONS

A sample of 60 files was reviewed to determine if documentation was available to support property abatements and to ensure the City of Tampa would be reimbursed for its expenses incurred. This review identified the following missing items:

- 44 (73%) action files did not have pictures or other documentation to support non-compliance by the violator and in support of abatement of the property.
- 16 (27%) resolutions by City Council approving recording of liens with the Clerk of the Court were dated more than 60 days after the date of abatement.
- 14 (74%) of 19 action files were missing status updates for liens outstanding more than one year.
- 2 (22%) of 9 lien satisfactions had not been recorded in the COMPLY system.
- 1 (2%) Notice of Violation or Affidavit of Non-Compliance could not be located.

CRITERIA

In order to recover City expenses incurred for property abatements, adequate documentation should be retained to support the lien held by the City of Tampa.

RISK DESCRIPTION

Potential loss of revenue due to inability to support lien placed on property.

RECOMMENDATION 3

A process should be developed to ensure that all required documentation to support property abatements and reimbursement of City expenses is retained.

MANAGEMENT'S RESPONSE

Procedures will be documented and implemented to require before and after photographs of all abatement cases. Legal is looking at making changes to extend the period of time for recording.