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Audit Report

**AUDIT OF CODE ENFORCEMENT FOR
MULTI-TENANT PROPERTIES**

(Report No. A08-002)

October 26, 2007

City Auditor

Craig D. Kinton

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Executive Summary

We evaluated the effectiveness of the City's efforts to enforce code compliance at Dallas multi-tenant properties and found that while the Department of Code Compliance was able to close all cases of violations within the customer service standards established by the City, code enforcement could be improved through better use of fines and enhanced collection of inspection fees. We determined that (1) an error in the City Code prevents the City from charging a minimum fine of \$2,000 for failure to register a multi-tenant property; and, (2) the City has not undertaken efforts to collect over \$500,000 in fees owed by multi-tenant property owners.

Background Summary

Owners of approximately 3,000 multi-tenant properties in the City of Dallas are required to annually register with the Multi-Tenant Division of the Code Compliance Department and the properties are to undergo regular inspections. The Department of Code Compliance conducts inspections and enforces compliance by charging inspection fees and by issuing notices of violation along with civil and criminal citations. The Office of Financial Services Special Collections Division receives and processes fee payments. The City Attorney prosecutes the citations, and the Department of Court and Detention Services collects adjudicated penalties.

Changes to the City Code in March 2004 inadvertently referenced the incorrect section when setting a minimum fine for failure to register a multi-tenant property. As a result, delinquent property owners are faced with fines ranging from \$0 to \$560 rather than the \$2,000 intended by City Council. This error makes the fines less effective as an enforcement tool, and the City may be losing \$1.2 million during Fiscal Year 2008. Further, City Code does not prescribe a minimum fine for other multi-tenant code violations.

The City has not undertaken any effort to collect unpaid inspection fees totaling over \$500,000. Almost 50 percent of this amount has remained unpaid for over a year. As a result, the owners of multi-tenant properties, who owe inspection fees to the City, have been able to register and operate their rental properties even though the City Code prohibits the issuance of registration certificates to delinquent property owners.

Summary of Recommendations

We recommend the Director of Code Compliance work in cooperation with the City Attorney to correct City Code Section 27-4 (b) (2) (C) to reflect the text approved by the City Council in Ordinance 25522; and, to determine whether minimum fines should be established for other City Code Section 27 violations. We also recommend the Director of the Office of Financial Services establish

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procedures to enforce the collection of fees from delinquent property owners, and the Director of Code Compliance enforce the City Code by denying multi-tenant registration certificates to property owners with outstanding fees assessed for prior inspection violations.

Summary of Management’s Response

Agree. City management concurs with all four recommendations and either has taken or intends to take corrective actions to timely address the issues identified in this report. The complete response is included as Appendix III to this report.

Summary of Objective, Scope and Methodology

Our audit objective was to determine if the City’s enforcement of compliance with code requirements for multi-tenant properties is effective. The audit covered multi-tenant program activities from October 1, 2006 to April 1, 2007.

We interviewed City staff and managers, reviewed relevant City Code sections, evaluated department performance reports, and analyzed inspection and payment documentation. We also tested samples of data collected by the departments and visited multi-tenant properties to observe if violations have been corrected.

Audit Results

Overall Conclusions

Code Compliance Multi-Tenant Division was able to close all cases of violations within the customer service standards established by the City. From October 1, 2006 to April 1, 2007, the Division performed a total of 6,426 inspections of apartment complexes, residential hotels, and swimming pools. To enforce timely corrective action by property owners, the Division issued 37 notices of violations informing the property owners of the need to take corrective action, 762 invoices for failed inspections, and 1,488 citations for failure to register multi-tenant properties and other code violations. Twenty-two rental properties were referred to the City Attorney. We found, however, the City could take several actions to improve code compliance.

I. Multi-tenant code compliance can be strengthened by correcting an error in the City Code.

Our audit showed that changes to the City Code in March 2004 inadvertently referenced the incorrect section when setting a minimum fine for failure to register a multi-tenant property.

- City Code Section 27-4 (b) (2) (C) sets “a fine of not less than \$2,000 for a first conviction of a violation of Section 27-31.” Before the March 3, 2004 changes, Section 27-31 (a) read “A person commits an offense if he owns or operates a multi-tenant property in the city without a valid certificate of registration issued under this article.”
- Council Ordinance 25522 dated March 3, 2004 moved the language in Section 27-31 to Section 27-30. However, City Code Section 27-4 (b) (2) (C) was never updated to refer to Section 27-30 instead of 27-31.

As a result of this oversight, the Administrative Judge established fines ranging from \$0 to \$560 for property owners who are found liable for not registering properties. To determine the usual fine assessed as a result of these administrative guidelines, we selected a random sample of 25 out of 1,304 administrative citations issued during October 1, 2006 to April 1, 2007 for failure to register properties. We found that:

- Nine citations (36 percent) resulted in defendants being found liable in administrative hearings, however, all fines were reduced to \$25, \$15, or \$10;

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- Four citations (16 percent) resulted in defendants receiving a “Default Judgment” (did not appear in court) of \$560; and,
- Twelve citations (48 percent) were dismissed.

Based on our sample results, if the City Code reference error were corrected, we estimate the City potentially could generate approximately \$1.2 million¹ in additional revenue in fiscal year 2008. The potential revenue in future years probably will be less because property owners will be more likely to comply with the registration requirement rather than be fined \$2,000.

Further, our analysis of City Code Chapter 27 shows that minimum fines have not been set for many other code violations by multi-tenant property owners and residents, such as violations of security standards, occupancy loads, residential hotel rules, required postings, and non-payment of bills. Setting a minimum fine for every code violation at multi-tenant properties would improve compliance and the City’s ability to pursue and correct the violations.

Recommendation 1:

We recommend the Director of the Department of Code Compliance work in cooperation with the City Attorney to correct City Code Section 27-4 (b) (2) (C) to reflect the text approved by the City Council in Ordinance 25522.

Management’s Response

Agree. A request to correct the text in City Code Section 27-4 was forwarded to the City Attorney’s Office and changes to this City Code section were made and approved on September 26, 2007 by Ordinance Number 26955.

Recommendation 2:

We recommend that the Director of the Department of Code Compliance work in cooperation with the City Attorney to determine whether minimum fines should be established for other City Code Section 27 violations.

Management’s Response

Agree. The Department of Code Compliance will work with the City Attorney’s Office to determine whether minimum fines should be established for other City Code Section 27 violations. This will be implemented in April 2008.

¹ We estimate that 1,304 citations will be issued annually if compliance does not improve. We also estimate that 36 percent of defendants in these citations, or 469, will be found liable in administrative hearings and another 16 percent, or 209 defendants, will receive “Default Judgments”. As a result, approximately 678 defendants will have to pay a minimum \$2,000 fine, totaling \$1,356,000. This is \$1,227,235 more than the current total of \$128,765 (based on fines of \$25 and \$560).

II. The City should initiate actions to collect delinquent fees from multi-tenant property owners.

Multi-tenant property owners are registering and operating their properties even though City Code prohibits the issuance of registration certificates to delinquent property owners. This can be attributed to the Department of Code Compliance not enforcing this provision of the City Code and Special Collections not establishing and implementing timely collection action for fees owed by property owners.

City Code Section 27-33 provides that an applicant for a multi-tenant registration certificate should not have any outstanding fees assessed for prior inspections. Our review, however, shows that in violation of this section of the City Code, the Multi-Tenant Division of the Department of Code Compliance issues registration certificates to all property owners who paid their current registration fees, even if these property owners are delinquent in paying outstanding inspection fees.

The Multi-Tenant Registration and Collections System (MTRS) keeps track of all property owner assessments and payments. Our analysis of MTRS reports shows that since September 2004, Special Collections received invoices issued by the Department of Code Compliance totaling \$1,462,147 for inspection and registration fees. Although Special Collections received \$942,465 in voluntary payments from property owners, the remaining \$519,682 has not been collected.

The following table shows the aging of the delinquent inspection fees.

Exhibit 1. Aged inspection fees as of April 1, 2007.

Length of Delinquency	Amount Due	Percent
Older than one year	\$245,140	47%
Nine months to one year old	\$67,039	13%
Six to nine months old	\$70,787	14%
Three to six months old	\$36,225	7%
Less than three months old	\$100,490	19%
Total Delinquent	\$519,681	100%

Source: MTRS.

According to the Commercial Collection Agency Association, the probability of collecting a delinquent account drops dramatically with the length of delinquency; therefore, it is critical for Special Collections to enforce the timely collection of fees. Further, the enforcement of the City Code should result in all the fees being paid because delinquent property owners will have to pay past due amounts in order to obtain registration certification.

Recommendation 3:

We recommend the Director of the Office of Financial Services establish procedures to enforce the collection of outstanding amounts from delinquent property owners.

Management's Response

Agree. The City's Centralized Collection Unit has commenced collections on these accounts via direct phone calls to delinquent property owners. Additionally, the accounts will be transferred to the City's third-party collector after Centralized Collections' efforts are exhausted; however, additional collections in FY 2007-08 are expected to be \$219,000, and this amount has been included in the FY 2007-08 Budget. Given the age of those accounts, it is not reasonable to assume revenue could be increased by \$520,000 in FY 2007-08.

Special Collections will work closely with Code Compliance to ensure that multi-tenant registration certificates are denied to property owners with outstanding fees. Additionally, Special Collections will provide a list of delinquent property owners so that Code Compliance will have the proper information to revoke registration certificates where applicable. These actions will be implemented by October 15, 2007.

Recommendation 4:

We recommend the Director of Code Compliance enforce City Code and deny multi-tenant certificates of registration to applicants with outstanding fees assessed for prior inspection violations.

Management's Response

Agree. This section of Code Compliance needs improvement and on September 5, 2007, the Dallas City Council was briefed on a 100 Day Improvement Plan that has been provided to you.

In the interim, we are working on implementing the following by December 15, 2007:

- Computer system enhancement that allows both the Special Collections Division and Multi-Tenant Division to improve the reporting and tracking of all Multi-Tenant accounts. We will provide an on-line registration for customer service improvement.

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- Exploring a process to link outstanding fees (associated with the inspection process and taxes) to the annual registration process prior to the issuance of Multi-Tenant certificates.

Background, Objective, Scope and Methodology

Background

To protect the health, safety, morals, and welfare of the citizens of the City of Dallas, the City Council established minimum standards with respect to utilities, facilities, and other physical components essential to make structures safe, sanitary, and fit for human use and habitation. In accordance with Chapter 27 Article VII of the Dallas City Code, all multi-tenant properties with three or more units that are five years or older are required to annually register with the Multi-Tenant Division of the Department of Code Compliance and to undergo inspections at least once every three years. In addition, the Multi-Tenant Division receives and investigates code violation complaints from either apartment renters or citizens.

The total number of multi-tenant properties in the City of Dallas is estimated at over 3,000. According to the April 1, 2007 information received from Multi-Tenant Division of the Department of Code Compliance, 126 properties remained in violation of the registration requirement.

For fiscal year 2007, the Multi-Tenant Division had a budget of \$2,653,141. The expenditures during the period October 1, 2006 to April 1, 2007 were \$1,081,991. During the same period, the Division generated \$462,231 in revenue with an annual revenue budget of \$1,111,500.

Four city departments are involved in the registration and inspection program. The Department of Code Compliance mails out registration packets, registers multi-tenant properties, schedules and tracks property inspections, and enforces code compliance by charging inspection fees and by issuing notices of violation along with civil and criminal citations. The Office of Financial Services - Special Collections Division - receives and processes fee payments. The City Attorney prosecutes the citations and the Department of Court and Detention Services collects adjudicated penalties.

Objective, Scope and Methodology

This audit was conducted under authority of the City Charter, Chapter IX, Section 3 and in accordance with generally accepted government auditing standards.

Our audit objective was to determine if the city's enforcement of compliance with code requirements for multi-tenant properties is effective. The audit covered the

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multi-tenant program activities for October 1, 2006 to April 1, 2007. We also reviewed certain related procedures, events, and matters occurring before and after this period.

We interviewed employees and managers of the Department of Code Compliance, Special Collections, City Attorney, and Department of Court and Detention Services. We also reviewed relevant sections of the City Code, departmental performance reports, and inspection and payment documentation. To evaluate the city's code enforcement and fee collection efforts, we reviewed data kept by the Department of Code Compliance, the Office of Financial Services, the City Attorney, and the Department of Court and Detention Services.

To evaluate staff compliance with city policies and procedures, test internal controls, and to verify the data provided by city departments, we reviewed a representative sample of:

- 26 failed apartment complex inspections;
- 24 failed swimming pool inspections;
- 29 properties that had not complied with the registration requirement by November 2006;
- 29 citizen complaints about code violations at Dallas apartment complexes;
- 28 inspection invoices issued during the audit period; and
- 25 citations for failure to register issued during the audit period.

In addition, we accompanied Code Compliance employees during on-site inspections of 12 multi-tenant properties to observe whether prior violations had been corrected.

Major Contributors to This Report

Gary Lewis, CPA, CIA, CFE, Audit Manager

Anatoli Douditski, CIA, Project Manager

Eva Chen, Auditor

Theresa Hampden, CPA, Quality Control Manager

Management's Response

Memorandum

RECEIVED
OCT 19 2007
CITY AUDITOR'S OFFICE



DATE October 18, 2007
TO Craig D. Kinton, CPA
City Auditor
SUBJECT **Audit Report- Code Enforcement for Multi-Tenant Properties**

The Department of Code Compliance (DCC) was requested to provide a response to the audit report of the Multi-Tenant Program. Our response to the audit recommendations are as follows:

RECOMMENDATION 1:

We recommend the Director of the Department of Code Compliance work in cooperation with the City Attorney to correct City Code Section 27-4 (b) (2) (C) to reflect the text approved by the City Council in Ordinance 25522.

AGREE DISAGREE

CORRECTIVE ACTION PLAN

A request to correct the text in City Code Section 27-4 was forwarded to the City Attorney's Office. Changes to this particular section of the ordinance were made and approved on September 26, 2007, Ordinance Number 26955.

IMPLEMENTATION DATE:

September 26, 2007

RECOMMENDATION 2:

We recommend that the Director of the Department of Code Compliance work in cooperation with the City Attorney to determine whether minimum fines should be established for other City Code Section 27 violations.

AGREE DISAGREE

CORRECTIVE ACTION PLAN:

"Dallas - **Together**, we do it better!"

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The Department of Code Compliance will work with the City Attorney's Office to determine whether minimum fines should be established for other City Code Section 27 violations.

IMPLEMENTATION DATE:

April 2008

RECOMMENDATION 3:

We recommend the Director of the Department of Financial Services establish procedures to enforce the collection of outstanding amounts from delinquent property owners.

AGREE X **DISAGREE** _____

CORRECTIVE ACTION PLAN:

Management concurs and notes that the City's Centralized Collection Unit has commenced collections on these accounts via direct phone call to delinquent property owners. Additionally, the accounts will be transferred to the City's third party collector after Centralized Collections' efforts are exhausted. However, additional collections in FY 2007-08 are expected to be \$219K and this amount has been included in the FY 2007-08 Budget. Given the age of those accounts it is not reasonable to assume revenue could be increased by \$520K in FY 2007- 08.

Special Collections will work closely with Code to ensure that multi-tenant registration certificates are denied for property owners with outstanding fees. Additionally, Special Collections will provide a list of delinquent property owners so that Code will have the proper information to revoke registration certificates where applicable.

IMPLEMENTATION DATE:

October 15, 2007

RECOMMENDATION 4:

We recommend the Director of Code Compliance enforce City Code and deny multi-tenant certificates of registration to applicants with outstanding fees assessed for prior inspection violations.

AGREE X **DISAGREE** _____

CORRECTIVE ACTION PLAN:

This section of Code Compliance needs improvement. As you know, on September 5, 2007 we briefed the Dallas City Council on a plan (100 Day Improvement Plan) and provided you a copy of this. The Multi-Tenant Division is included.

In the interim, we are working on the following:

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- Computer system enhancement that allow both the Special Collection Division and Multi-Tenant Division to improve the reporting and tracking of all Multi-Tenant accounts. We will provide an on-line registration for customer service improvement.
- Exploring a process to link outstanding fees (associated with the inspection process and or taxes) to the annual registration process prior to the issuance of Multi-Tenant Certificates.

IMPLEMENTATION DATE:

December 15, 2007

RESPONSIBLE MANAGER

Forest E. Turner

Should you have questions or need additional information, please feel free to contact me at 670-3118.



Forest E. Turner, Acting Director
Department of Code Compliance

cc: Charles W. Daniels, Assistant City Manager
Jesus Toscano Jr., Administrative Assistant City Attorney
Maria Alicia Garcia, Director, Office of Financial Services
Mary Lynn Morris, Assistant Director, Department of Code Compliance
Oscar Faye Williams, Assistant Director, Department of Code Compliance
Sheila Delgado, Assistant Director, Department of Code Compliance