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Audit Report

**Performance Audit of the
Code Compliance Function**

March 23, 2010

Office of the City Auditor
Austin, Texas

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City of Austin



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Date: February 23, 2010
To: Mayor and Council
From: Kenneth Mory, City Auditor 
Subject: Performance Audit of the Code Compliance Function

Attached is the audit report on the City's Code Compliance function.

The Office of the City Auditor staff found that the City's Code Compliance function has appropriate policies and procedures to control for known risks if properly followed. Staff interviews with neighborhood representatives also indicate the department works well with neighborhood groups. However, we identified the following areas for improvement:

1. consistent implementation of policies,
2. initial response to complaints, and
3. case management system reliability and operational usefulness.

Finally, we identified several tools used in other cities that could improve coverage of code compliance issues.

This report contains seven recommendations intended to strengthen consistency in program operations, ensure all complaints receive appropriate action, increase the usefulness of code compliance data, and increase the effectiveness of compliance efforts. Management has concurred with all of the recommendations.

We appreciate the cooperation and assistance we received from staff in the Code Compliance Department during this audit.

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COUNCIL SUMMARY PERFORMANCE AUDIT OF THE CODE COMPLIANCE FUNCTION



This report presents the results of our performance audit of the City's Code Compliance function.

The City's Code Compliance function has appropriate policies and procedures to control for known risks if properly followed. Interviews with neighborhood representatives indicate the department works well with neighborhood groups. However, we identified the following areas for improvement.

FINDING 1: The Code Compliance Department (CCD) can improve their investigation and resolution practices to be consistent with their policies and procedures.

- Code violation case investigation and resolution practices often differed from CCD policies and procedures.
- Case violation investigation and resolution practices varied across cases.
- Documentation of cases was not always sufficient.

FINDING 2: The Solid Waste Services (SWS) Call Center and Code Compliance Department initial response to complaints needs improvement.

- A number of code violation complaints received by the SWS Call Center did not receive appropriate initial action.
- Not all complaint cases worked by CCD received an initial inspection when one appears to be appropriate in accordance with policy.

FINDING 3: Data management in CCD needs improvement to strengthen program operations and the reliability of data reporting.

FINDING 4: The CCD should consider using available tools to improve the coverage of code compliance issues. These include:

- Tenant and property owner assistance,
- Response teams,
- Escalating financial penalties for non-compliance, and
- Rental inspection programs.

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ACTION SUMMARY PERFORMANCE AUDIT OF THE CODE COMPLIANCE FUNCTION



Recommendation	Management Concurrence	Proposed Implementation Date
To strengthen consistency in program operations and increase the quality, quantity, and timeliness of investigations and resolutions,		
01. The Code Compliance Department Director should develop and implement procedures for monitoring, along with procedures for corrective action, to ensure inspector compliance with policies and procedures for complaint and violation investigation and resolution.	Concur	June 2010
02. The Code Compliance Department Director should develop, implement, and monitor a training plan for inspectors to ensure inspectors receive adequate education and training both related to the City Code and to code enforcement practices. Pursuing certification in code compliance from professional organizations may be one avenue to strengthen code inspectors' skill sets.	Concur	December 2010 October 2010
03. The Code Compliance Department Director should emphasize in the policies and procedures the importance of keeping accurate data, provide direction for proper records management, monitor conditions and provide corrective action as needed.	Concur	October 2010

Recommendation	Management Concurrence	Proposed Implementation Date
04. The Code Compliance Department Director should establish a uniform response for “parking in yard” complaints and communicate such response to CCD inspectors, the 311 Customer Service Center and the SWS Call Center.	Concur	March 2010
05. The Code Compliance Department Director should work to determine, with the Law Department, their authority to refer tenant complaints directly to the Housing Authority of the City of Austin without investigation. If allowed, the Department Director should establish a formal partnership with the Housing Authority of the City of Austin to ensure that CCD referred complaints are investigated for compliance, not only with minimum federal standards, but also with City Code.	Concur	To be determined
To improve program measures and increase the reliability of data,		
06. The Code Compliance Department Director should work with the Office of Communications and Technology Management (CTM) to find an integrated case management solution to manage all three department activities, Dangerous Buildings and Housing, Zoning Code Compliance, and Property Abatement, with a single point of entry that has capacity to interface with 311. The solution should provide appropriate technology controls to ensure data integrity and reliable and relevant reporting, while also providing an audit trail for complaints and cases.	Concur	March 2010

Recommendation	Management Concurrence	Proposed Implementation Date
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In order to increase the effectiveness of the Code Compliance function in bringing negligent property owners to compliance,

<p>07. The Code Compliance Department Director in conjunction with the Assistant City Manager over CCD should consider establishing a team to evaluate practices in other cities to determine what approaches will be beneficial in Austin.</p>	Concur	April 2010
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BACKGROUND

The Code Compliance Department (CCD) provides services in order to attain compliance with City Code regarding land use regulations and the maintenance of structures and premises and contributes to the health, cleanliness, and safety of Austin residents. CCD does this through education, enforcement, and abatement. Each section of the City Code sets a legal standard requiring compliance from all City residents and commercial entities.

CCD gains compliance with the code through reactive, complaint driven activities, and through a few proactive, non-complaint driven, activities. Enforcement officials often face complex problems with a variety of conflicting interests, with resultant pressures from elected officials and community groups to punish violators swiftly, while often receiving complaints that officials are harsh, overzealous, or bureaucratic.

Evolution of the City's Code Compliance Function

The code compliance function in the City of Austin evolved from 2000 to its current structure, with change expected to continue in future years. During this same period, the City also implemented the AMANDA electronic case management system and the 311 Customer Service Call Center to serve the code compliance function. In fiscal year 2001, the City Council consolidated, within the Solid Waste Services Department (SWS), the handling of complaints related to high weeds, junk, litter, and illegal dumping on vacant and occupied public and private properties. In fiscal year 2005, building on the progress of the One Stop Shop (OSS), the Citywide code enforcement initiative also consolidated the compliance functions of trash and weed control, housing enforcement, and zoning enforcement into the SWS Code Enforcement (CE) Division.

Comprehensive long-term planning occurred as summarized in the document *Code Compliance Consolidation Initiative - Conceptual Recommendations*. The CE Division worked with the Director of Corporate Consulting Services and a research analyst from Austin Energy to establish a model for code compliance. The model established the direction, structure, and processes of the Division. Plans included a migration of code enforcement to a proactive approach to code enforcement.

Change came again in fiscal year 2010 when the CE Division became a stand-alone department, CCD. Subject to the approval of City Council, a multi-family rental unit registration and inspection program may also be initiated this year. Under the current organization, SWS continues to provide the support service functions for financial and human resources needs. The CCD reports to the Assistant City Manager for Transportation Services.

Code Compliance Activities

CCD provides investigations, enforcement, code education, and technical assistance for property owners and neighborhoods so they can have a higher degree of compliance with City Code in the following activities:

- Dangerous Buildings and Housing (e.g., substandard and dangerous conditions, vacant and accessible structures, dilapidated structures),
- Property Abatement (e.g., illegal dumping, tall weeds and grass), and
- Zoning Code Compliance (e.g., commercial business in a residential neighborhood, work without a permit, improper placement of RVs).¹

For fiscal year 2010, the City budgeted \$7.4 million and 63 FTE's for the new CCD.

Complaint-Driven Code Compliance Process

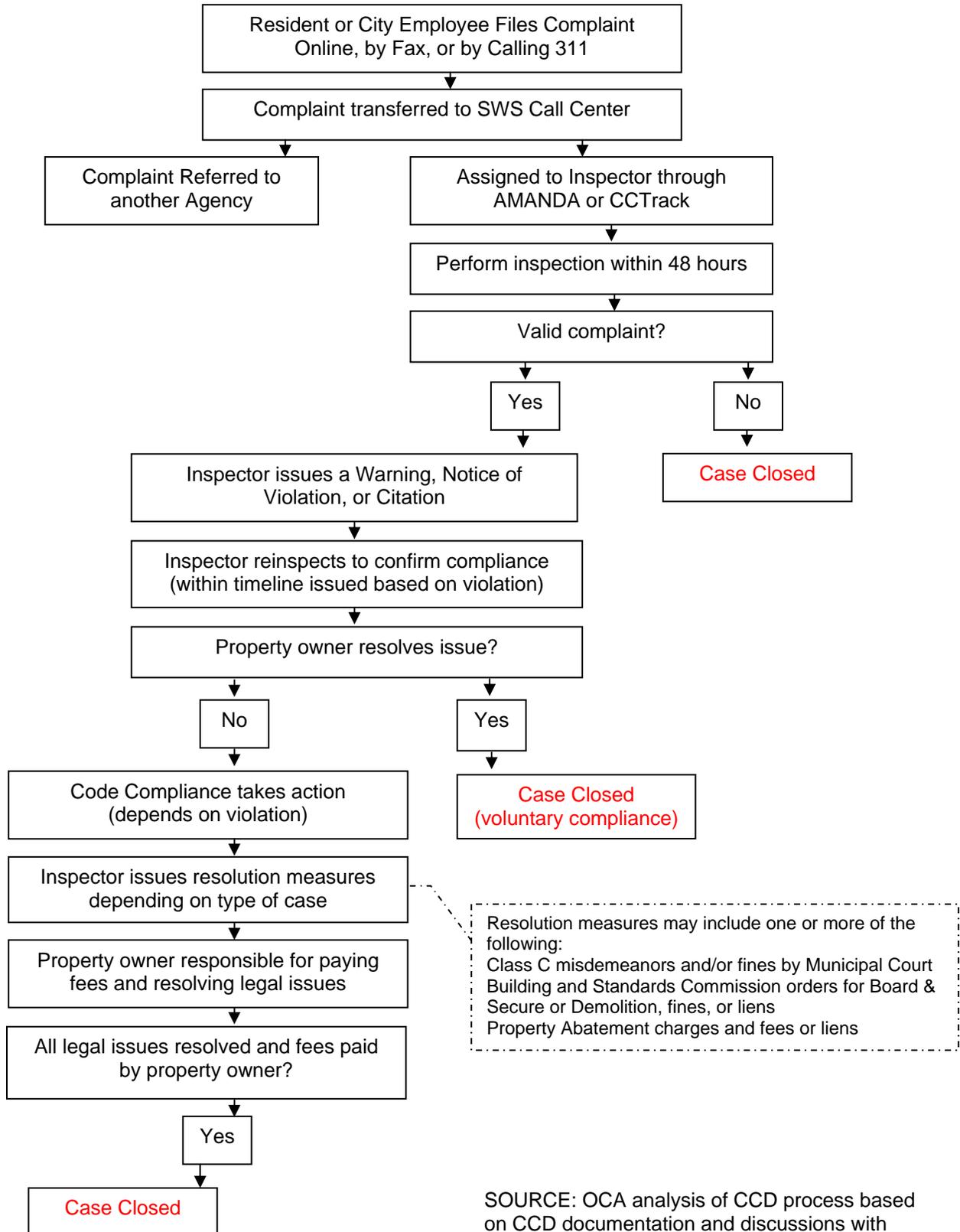
In most cases, a complaint from a resident or City employee begins the code compliance process. Based on discussions with CCD management and a review of CCD policies and other documentation, OCA prepared the exhibit on the following page, which depicts the code compliance process. The code compliance process involves several steps, beginning with receipt of a complaint through the City's 311 system followed by validation of the complaint through an inspection. If the inspector finds violations, he or she may issue a warning, notice of violation, or a citation. If violations are not resolved by the property owner, the City may take further action including correcting the problem and charging the property owner, assessing fines, or initiating legal action.

Complaint and violation information is tracked in two systems within CCD, the Citywide case management database (AMANDA) and an internal CCD case management database (CCTrack). The AMANDA database stores information for Dangerous Buildings and Housing activities and for Zoning Code Compliance activities while the CTrack database records information for the Property Abatement activity. The two case management systems automatically route complaint data to the inspector assigned to the area the property is located in.

Based on data from the 311 Customer Service case management system, there were 14,854 service requests for the Code Compliance function in fiscal year 2009. Appendix B contains additional summary data for complaints and violations.

¹ Several other departments in the City also perform code compliance functions. For example, the Austin Fire Department (AFD) executes a code compliance function through its Engineering and Inspection Services activity. The Health and Human Services Department performs code compliance functions in their Environmental and Consumer Health program. The Watershed Protection Department also has a code compliance function addressing environmental codes.

EXHIBIT Code Compliance Process



SOURCE: OCA analysis of CCD process based on CCD documentation and discussions with CCD management.

Proactive Code Compliance Efforts

The Department provides several non-complaint driven, proactive functions. The Code Compliance Department participates as a member of the Public Assembly Code Enforcement Team (PACE), which includes staff from the Texas Alcoholic Beverage Commission, Austin Police Department (APD) and Austin Fire Department (AFD) and has increased compliance with City Code at such events as the South by Southwest music event, First Thursday vendor gatherings on Congress Avenue and parties in the University of Texas area where elaborate non-compliant structures were often constructed. PACE also educates fraternities about the procedures for throwing a permitted party. The Code Compliance Department also assists in neighborhood clean-up projects. Such a community cleanup project includes a social gathering where the community and staff assist the neighborhood with the clean up. The department conducts proactive enforcement activities with the Work Without a Permit Program, as well as local sweeps for trees obstructing the road when a garbage truck breaks a limb during a route.

OBJECTIVES, SCOPE AND METHODOLOGY

Objective

Our objective was to determine whether the Code Compliance Department (CCD) can improve the quantity, quality, or timeliness of investigation and resolution of complaint driven and non-complaint driven cases.

Scope

The audit included information from fiscal year 2009. We focused on code compliance activities by the CCD, formerly the Code Enforcement division of Solid Waste Services (SWS). While our survey work identified seven risk areas, this audit only addresses code enforcement practices.

Methodology

To accomplish our objective, we completed the following:

- Reviewed internal policies to identify criteria for handling of complaints and violations.
- Selected and analyzed a random sample of 270 records for complaints and violations from the AMANDA and CCTrack databases to evaluate compliance with policies and procedures and to review whether similar violations had similar outcomes.
- Selected and analyzed 110 code compliance complaints in the 311 system to determine whether they were actually transferred to the AMANDA or CCTrack system.
- Performed a benchmarking analysis with other cities and examined proactive programs in those cities.
- Interviewed CCD staff to obtain information about actual practices within the department and information about the interaction of the department with other City functions.
- Selected neighborhood leaders based on information from CCD staff and Council Action Forms and collected information from them regarding their experience with CCD.

This audit was conducted in accordance with generally accepted government auditing standards.

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AUDIT RESULTS

The City's Code Compliance function has appropriate policies and procedures to control for known risks if properly followed. Interviews with neighborhood representatives indicate the department works well with neighborhood groups. However, policies have not been appropriately implemented nor when implemented have they been consistently followed. We identified the following areas for improvement:

1. consistent implementation of policies,
2. initial response to complaints, and
3. case management system reliability and operational usefulness.

Finally, we identified some tools for code compliance that Austin is not using that could help provide more coverage of code compliance issues than current efforts.

FINDING 1: CCD can improve their investigation and resolution practices to be consistent with their policies and procedures.

Code violation case investigation and resolution practices often differed from CCD policies and procedures.

Policies and procedures serve to ensure transparency and fairness in applying the City Code, support timely resolution of code violations, and control risks that could prevent compliance with the City Code.

In a review of a random sample of 50 cases in Dangerous Buildings and Housing and Zoning Code Compliance, we noted divergences from policy such as: required notices not being issued (20%), follow-up inspections not occurring in a timely manner (65%), monitoring of conditions not occurring in a timely manner (57%), and due date extensions through inaction (44%). Examples of these types of deficiencies include one case with eight deficiencies where a photo or testimonial evidence of a notice of violation or a warning were not included in case documentation. In addition to providing information to property owners, such notices constitute legal requirements for judicial processes. In another case, a follow-up verification inspection occurred at least one month later than policy required. To this day, the violation has not been remedied and the case remains open without citation. Informal extension of compliance dates because of inspector inaction occurred frequently in the sampled cases, even when dangerous conditions were present. For one case in our sample where dangerous conditions were identified by the inspector, the notice gave six months to comply and compliance was not achieved until one month after the due date.

These departures from policy undermine CCD's mission. Unresolved or partially addressed complaints create health and safety risks for residents. Lack of an immediate follow-up by an inspector to check on a property owner's progress in

correcting violations could encourage the property owner to not comply in a timely fashion, or not comply at all. Half of the cases we sampled closed within time periods specified in policy and half did not. As indicated above, one key reason violators may take a long time to come into compliance is that in actual practice, but not in the CCD policy, many reinspections often occur without success in gaining voluntary compliance.

Further, we saw several instances of inconsistent handling of “parking in yard” complaints. Sometimes these cases were transferred to APD without investigations; sometimes they were investigated and then transferred to APD; and sometimes they were fully investigated and a citation issued by CCD.

With the prior City Manager’s consolidation of the inspection function in fiscal year 2005, the resulting organization did not provide for sufficient front-line supervisors to supervise inspectors and hold them accountable for following procedures consistently. In fiscal year 2010, such positions were approved and filled by the department.

As a result of a lack of front-line supervisors, monitoring of compliance with department policies and procedures occurred mostly when problems were brought to the attention of CCD management. Another contributing factor was insufficient inspector training. When the consolidation occurred, each of the inspectors specialized in a given code area. After the merger, all inspectors covered investigations for all codes. On-the-job training constitutes a major form of learning for inspectors and there is limited formal training.

There are additional factors that impact consistent enforcement. The City’s One Stop Shop permits building activities and sometimes during the course of working with a property owner will identify that the owner is not in compliance with City Code. Instead of allowing CCD inspectors to manage bringing the property into compliance, OSS may work with the property owner directly towards that end. Another factor involves litigation, as filing a lawsuit is the next step after attempts to get compliance through Municipal Court are unsuccessful. In the past, the CCD experienced hesitancy from the City’s Law Department to file a lawsuit for zoning cases. As a result, some high profile code compliance cases have made the headlines of the paper as they seemed to take a long time to resolve. However, the City Attorney established an Affirmative Litigation Division in 2009 and CCD management is optimistic that this tool will be used as a catalyst for increasing the frequency and aggressiveness of litigation for zoning cases.

Code violation investigation and resolution practices varied across cases.

Divergence from policy has resulted in inconsistent and inequitable treatment across cases. One clear example occurred in citations for work without a permit. In most cases where work without a permit had been performed by a professional, inspectors took a zero-tolerance approach. Citations were given to such professionals, even when the inspector had to track them down. However, audit

work documented cases where CCD did not issue a citation. As another example of inconsistency, in one case involving conditions at an apartment complex, the inspector did not reinspect to verify compliance for all deficiencies, while in other cases inspectors followed-up until all deficiencies were addressed.

Documentation of cases was not always sufficient. Therefore, the CCD may not be able to substantiate determinations of violations, explain and support decisions to grant flexibility in timelines, and document compliance with requirements established by federal, state and City mandates. Additionally, without photographs documenting compliance or details in the case notes about the resolution of the violation, the CCD may not always be able to support its decision to close individual cases.

FINDING 2: The Solid Waste Services Call Center and Code Compliance Department initial response to complaints needs improvement.

A number of code violation complaints received by the SWS Call Center did not receive appropriate initial action. There is not an automatic interface between CCD's systems and the 311 system. Instead, the SWS Call Center receives complaints from 311 and then manually enters them into one of CCD's two case management systems. SWS Call Center staff use their judgment to determine which cases to enter into the CCD database. Since SWS Call Center staff do not have code compliance expertise, they should enter all cases so that a CCD inspector can determine the appropriate resolution.

Based on our sample of 110 records from the 311 system, some 311 customer service requests forwarded to Code Compliance through the intermediary SWS Call Center were not entered into AMANDA or CCTrack to be investigated (10%). Based on the details of a complaint received from 311, the SWS Call Center determined whether the case should be entered into AMANDA or CCTrack or forwarded to another department. For example, complaints referred to APD related to "parking in yard" were not handled consistently (5%). The Call Center staff sometimes transferred these directly to APD or sometimes entered them into the CCD's case management system to be worked by an inspector. Other complaints did not make it into CCD's system because the Call Center staff judged the addresses invalid (4%) and did not contact the complainants for further information. In addition, some of the complaints entered into AMANDA or CCTrack did not contain appropriate complainant information so the AMANDA or CCTrack case could not be directly traced to a given 311 complaint (1%). This may occur when a case is already being worked that resembles a new complaint and the CCD inspector does not enter information about the new complaint, including contact information for the complainant, in the existing record.

In addition to the complaints discussed above, not all complaint cases worked by CCD received an initial inspection when one appears to be required by policy. Variability existed in cases where initial inspections did not occur when CCD policy would appear to require one (14%). However, CCD routinely referred tenant complaints from properties owned by the Housing Authority of the City of Austin (HACA) to HACA without an investigation. CCD refers complaints from their tenants to the HACA for inspection without a formal policy agreement ensuring properties comply with City Code. HACA inspects for compliance with federal minimum housing standards but is not required to inspect for City Code violations. Another common complaint referred to another agency involved the previously mentioned “parking in yard.” Some complaints were referred from CCD to APD without an initial investigation and some complaints received an initial investigation.

Other examples of closures without an appropriate inspection include but are not limited to:

- a complaint of too many people living in a house received a referral to the state Department of Aging and Disability Services,
- the CCD inspector relied on City environmental inspectors to inform the inspector of any code violations, and
- determination that a homeowner’s complaint of work without a permit by a plumbing contractor was not a violation.

Recommendations

To strengthen consistency in program operations and increase the quality, quantity, and timeliness of investigations and resolutions,

01. The Code Compliance Department Director should develop and implement procedures for monitoring, along with procedures for corrective action, to ensure inspector compliance with policies and procedures for complaint and violation investigation and resolution.

MANAGEMENT RESPONSE: Concur

Code Compliance has recognized a deficiency in case management monitoring. In 2009 four Supervisor positions were created and are currently developing and implement procedures for monitoring, along with procedures for corrective action, to ensure inspector compliance with policies and procedures for complaint and violation investigation and resolution will occur. It is expected that this effort will be documented and fully implemented by June 1, 2010.

02. The Code Compliance Department Director should develop, implement, and monitor a training plan for inspectors to ensure inspectors receive adequate education and training both related to the City Code and to code enforcement practices. Pursuing certification in

code compliance from professional organizations may be one avenue to strengthen code inspectors' skill sets.

MANAGEMENT RESPONSE: Concur

Ninety-five percent of our staff currently holds State of Texas Intermediate Code Enforcement Officer certification. The department will continue to budget for continuing education requirements of this certification. Professional certifications such as AACE (American Association of Code Enforcement) Code Enforcement Officer will be incorporated into the department training upon approval of the next fiscal year's budget. The department has developed a comprehensive internal training program to ensure a minimum 40 hours of field training in order to strengthen the code inspector's skill sets and increase the quality of tasks performed.

03. The Code Compliance Department Director should emphasize in the policies and procedures the requirement of keeping accurate data, provide direction for proper records management, monitor conditions and provide corrective action as needed.

MANAGEMENT RESPONSE: Concur

The new Supervisors will continue to develop procedures to monitor field investigation staff to ensure accurate and appropriate data entry case records and provide corrective action as needed. A monthly random sampling of each inspector's cases will be performed.

04. The Code Compliance Department Director should establish a uniform response for "parking in yard" complaints and communicate such response to CCD inspectors, the 311 Customer Service Center and the SWS Call Center.

MANAGEMENT RESPONSE: Concur

CCD will direct 311 and the SWS Call Center to refer all "parking in yard" complaints to APD.

05. The Code Compliance Department Director should work to determine, with the Law Department, their authority to refer tenant complaints directly to the Housing Authority of the City of Austin without investigation. If allowed, the Department Director should establish a formal partnership with the Housing Authority of the City of Austin to ensure that CCD referred complaints are investigated for compliance, not only with minimum federal standards, but also with City Code.

MANAGEMENT RESPONSE: Concur

Code Compliance to confer with the Law Department on the following matters:

- determining authority of the City of Austin to apply local housing regulations to properties or units in federal program subject to federal minimum housing quality standards
 - clarifying jurisdiction between City of Austin Code Compliance and Housing Authority of the City of Austin as concerns housing complaints, investigations, and enforcement
 - identifying permissible options and/or methods for formalizing the roles and duties of each entity as concerns response to housing complaints to confirm appropriate action taken.
-

FINDING 3: Data management in CCD needs improvement to strengthen program operations and the reliability of data reporting.

CCD uses the Citywide AMANDA system to manage Dangerous Buildings and Housing cases and Zoning cases, and it uses CCTrack, a Microsoft Access based system, for Property Abatement cases. AMANDA is not used for Property Abatement cases at this time, because CCTrack is used to handle abatement billing for CCD. Significant differences exist between the two systems including differences in how information is recorded and what information is retrievable.

We found that, in general, AMANDA had controls to provide for data accuracy and was designed in a way to extract aggregate information about CCD cases. However, we noted limitations with the CCTrack database that impacted data quality and information retrieval.

The CCTrack database design does not include automatic data validation controls to ensure accurate data entry into the system. Some CCTrack cases had seemingly incompatible actions recorded. For instance, a case classified as “unjustified” was also classified as “corrected by inspector.” In addition, we identified issues with the database that question the reliability of the data. For instance, the department identified two records that were included with fiscal year 2009 records as training records, not legitimate cases. We also noted that addresses, which are a key identifier, can be entered incorrectly which can make it difficult to locate the case record or link it to other violations at the same address.

Limitations with the design of CCTrack also include a restricted capacity for information retrieval. The system provides for detailed tracking of inspector actions on a case by case basis. However, the design is not conducive to extracting aggregate information or producing high-level reports. For example, cases cannot be segregated by type, such as tall grass and weeds or trash and junk related. Case closure information was also limited so that we were unable to determine the final disposition of cases without reading detailed case logs. Similarly, Citywide performance reporting includes the number of inspections performed, rather than a count of the cases investigated.

Also, CCTrack, as an internal database, lacks oversight from the staff in the City's Communication and Technology Management department (CTM), and CCD does not have any formalized controls to ensure reliability.

Recommendations

To improve program measures and increase the reliability of data,

06. The Code Compliance Department Director should work with the Office of Communications and Technology Management (CTM) to find an integrated case management solution to manage all three department activities, Dangerous Buildings and Housing, Zoning Code Compliance, and Property Abatement, with a single point of entry that has capacity to interface with 311. The solution should provide appropriate technology controls to ensure data integrity and reliable and relevant reporting, while also providing an audit trail for complaints and cases.

MANAGEMENT RESPONSE: Concur

Meetings with CTM will be set up to discuss the technical scope, identify potential revisions to the current enterprise application AMANDA or the purchase of a new application and estimation of costs related to the implementation of an integrated case management solution to manage all three department activities with a single point of entry that has the capability to interface with 311.

Based on initial meeting with CTM a draft plan of action will be created to research options and direction discussed.

FINDING 4: The CCD should consider using available tools to improve the coverage of code compliance issues.

There are several tools that could be used to optimize the use of City funds.

Tenant and Property Owner Assistance

A lack of resources for property owners who find themselves in difficult living conditions may delay compliance with City Code. Austin's code enforcement department does not formally offer hardship assistance. Several cities do offer assistance to tenants and property owners by either providing or coordinating financial or other assistance. The City of Dallas provides homes to persons displaced as a result of structures condemned as an urban nuisance. The City of Phoenix provides or coordinates referrals to private and non-profit entities for various types of compliance assistance including housing repair, tool lending, volunteer labor assistance, and financial assistance. Also, relocation assistance for tenants who are forced out of their homes when landlords fail to address code violations is provided in other cities. Other assistance often offered includes

giving priority status to properties with code violations for Community Development Block Grant (CDBG) funds available through rental and homeowner assistance programs. CCD would like to staff a position for a social worker to help individuals who experience difficulty navigating existing avenues for assistance.

Response Teams

Austin does not currently have a proactive, multi-departmental response team to help address neighborhood issues with code compliance. Some other cities assign a response team to resolve neighborhood problems that require multi-department coordination. Many compliance cases require actions through more than one department to correct the violation and close the case. The Code Compliance Division Manager would like to house a team within his department to include personnel from other key departments. Such a team could be used for proactive programs targeted at improving neighborhood quality of life through code enforcement. As previously mentioned, CCD already has a type of “clean team” to organize residents; however, this team does not proactively address code compliance issues.

Cities use such teams to address living conditions in a neighborhood as a whole. For example, each year San Antonio targets a neighborhood in each council district for Extreme Target Sweeps. The code enforcement function coordinates a comprehensive package of city services to enhance the appearance of the target neighborhoods and encourage long-term property maintenance. This is an intense four-week concentration of the delivery of city services to targeted neighborhoods. Once the neighborhood is identified, community meetings are conducted to assist residents in identifying priorities. Services include, but are not limited to: street repair, vacant lot clean up, brush collection and code inspections. During the 4-week period, a staffed mobile unit is stationed at each site to allow residents to meet with city personnel to voice neighborhood concerns.

Escalating Financial Penalties for Non-Compliance

In Austin, when violations are not resolved voluntarily, fees and fines may be assessed. The possible fees and fines vary by the type of violation:

- Zoning – Class C Misdemeanor citation adjudicated through Municipal Court,
- Property Abatement – if the City abates the property, the City charges a \$175 fee plus the cost of abatement, and
- Dangerous Buildings and Housing – the Building and Standards Commission imposes fines that range from \$250 a week to \$1,000 a day.

For property abatement and dangerous buildings and housing, the City may also place a lien on the property for unpaid fees and fines. However, fines and fees are not progressive so repeat offenses and unaddressed violations are not assessed differently than for first-time offenses.

When financial hardship is not an issue and violations are not resolved, the City is not using tools to escalate these cases. Some neighborhood representatives contacted expressed dissatisfaction with how violators who do not come into compliance or who repeatedly violate the Code are handled. In particular, these neighborhood representatives thought that penalties for non-compliance should be escalated after a period of time and that repeat offenders should have greater penalties. In Portland, if the violator does not comply within 30 days, additional fines are imposed. In Portland and also in Phoenix, to ensure ongoing compliance, inspections of previously non-compliant properties are initiated without a complaint.

During the 1990's, Portland, Oregon adopted code enforcement fees, implementing the notion that "those who violate the City Code should pay the cost of code enforcement." There was also strong support from some neighborhood representatives that some property owners needed a financial penalty to encourage them to keep up their property. The code enforcement fee was found to be a factor encouraging owners to correct code violations more promptly. Liens were imposed and properties foreclosed to pay outstanding unpaid fees.²

Rental Inspection Programs

In Austin, repairs for rental properties are not always completed in a timely manner, even when the repair needs are documented by CCD in the form of code violations. Of particular concern are conditions such as lack of water which directly threaten tenants' health and safety. The City recognizes a sizeable number of multi-family housing complexes as substandard, aging, and overcrowded. Three percent are classified as marginally maintained or substandard and 19 percent as not well maintained.³ CCD records for one complex that had 11 separate violation cases within fiscal year 2009 show, among other issues, that at least two tenants went almost two months without hot water after the violation was documented and several tenants went at least a month with water leaks, through the roof or walls, after violations were documented.

The experience of other cities has shown that a way to increase code compliance is to mandate systematic housing inspection targeting the neighborhoods and communities that are most at risk for substandard housing. For instance, in Los Angeles in the 1990s many apartments were considered substandard due to a high volume of slum housing. In 1998, the Systematic Code Enforcement Program, a program that permits systematic habitability code compliance checks on each rental unit in Los Angeles once every three years, was implemented. The results indicated that a more proactive procedure resulted in both an increase in

² *Report on Program Improvements: Neighborhood Inspections and Code Enforcement*, Portland, Oregon, 1/22/03.

³ *Preserving Affordable Housing in Austin: A Platform for Action*, COA Neighborhood Housing and Community Development, April 2008.

compliance and an increase in cited violations.⁴ Many cities allocate CDBG funds for rental inspection programs and for neighborhood sweeps in distressed areas. CCD is currently championing a rental inspection and registration program for Austin, which is an important step towards addressing overall housing conditions.

One option to implement such a program could include outsourcing proactive functions such as the City has done with the Energy Audit program. Multi-family housing complexes and property owners with multiple rental units could be required to have inspections completed by “City certified” private sector inspectors who are required to report violations to CCD. This inspector would charge a fee to the property owner.

Recommendations

In order to increase the effectiveness of the Code Compliance function in bringing negligent property owners to compliance,

07. The Code Compliance Department Director in conjunction with the Assistant City Manager over CCD should establish a team to evaluate practices in other cities to determine what approaches will be beneficial in Austin.

MANAGEMENT RESPONSE: Concur

CCD has previously traveled to Dallas and Fort Worth to evaluate their enforcement practices. We are members of national and state Code Enforcement associations, and attend national conferences to evaluate, gather, share and present information on best practices. We will develop an internal team to evaluate our current strategies to review other cities.

⁴ *Audit of Los Angeles' Housing Department Systematic Code Enforcement Program*, Gary Bess Associates, November 13, 2001, as referenced in *Inequitable Enforcement: The Crisis of Housing Code Enforcement in New York City*, Association for Neighborhood and Housing Development, Inc.

APPENDIX A
MANAGEMENT RESPONSE

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MEMORANDUM

To: Kenneth Mory, City Auditor
Corrie Stokes, Assistant City Auditor

From: William E. Rhodes, P.E., Department Director
Code Compliance Department

Date: February 18, 2010

Subject: Response to Performance Audit of the Code Compliance Function

Enclosed please find our response to the performance audit. We concur with all findings and as such, have provided our strategy and implementation plan to address each audit recommendation.

We are confident the attached submittal will allow your office to complete the next steps of the process. Please contact me if you have any additional questions.

William E. Rhodes, P.E., Director
City of Austin, Code Compliance Department

Approved by: Robert Goode, Assistant City Manager

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ACTION PLAN
Performance Audit of the Code Compliance Function

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
	To strengthen consistency in program operations and increase the quality, quantity, and timeliness of investigations and resolutions,					
01	The Code Compliance Department Director should develop and implement procedures for monitoring, along with procedures for corrective action, to ensure inspector compliance with policies and procedures for complaint and violation investigation and resolution.	Concur	Code Compliance has recognized a deficiency in case management monitoring. In 2009 four Supervisor positions were created and are currently developing and implement procedures for monitoring, along with procedures for corrective action, to ensure inspector compliance with policies and procedures for complaint and violation investigation and resolution will occur. It is expected that this effort will be documented and fully implemented by June 1, 2010.	Underway	Keith Leach - Division Manager 974-1979	June 1, 2010

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
02	<p>The Code Compliance Department Director should develop, implement, and monitor a training plan for inspectors to ensure inspectors receive adequate education and training both related to the City Code and to code enforcement practices. Pursuing professional certification in code compliance may be one avenue to strengthen code inspectors' skill sets.</p>	Concur	<p>Ninety-five percent of our staff currently holds State of Texas Intermediate Code Enforcement Officer certification. The department will continue to budget for continuing education requirements of this certification.</p> <p>Professional certifications such as AACE (American Association of Code Enforcement) Code Enforcement Officer will be incorporated into the department training upon approval of the next fiscal year's budget.</p> <p>The department has developed a comprehensive internal training program to ensure a minimum 40 hours of field training in order to strengthen the code inspector's skill sets and increase the quality of tasks performed.</p>	<p>Underway</p> <p>Department training programs are underway and a full time trainer position has been assigned to complete implementation.</p>	<p>Matthew Christianson - Assistant Division Manager - Training/Special Projects 974-6470</p>	<p>Completion of the internal training program projected to be by end of calendar year 2010.</p> <p>AACE Training proposed implementation date of beginning of fiscal year 2011.</p>

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
03	The Code Compliance Department Director should emphasize in the policies and procedures the importance of keeping accurate data, provide direction for proper records management, monitor conditions and provide corrective action as needed.	Concur	The new Supervisors will continue to develop procedures to monitor field investigation staff to ensure accurate and appropriate data entry case records and provide corrective action as needed. A monthly random sampling of each inspector's cases will be performed.	Underway	Ron Potts - Assistant Division Manager - Field Operations 974-2664 Paul Tomasovic - Assistant Division Manager - Field Operations 974-2738	Ongoing with a projected full implementation date of October 1, 2010
04	The Code Compliance Department Director should establish a uniform response for "parking in yard" complaints and communicate such response to CCD investigators, the 311 Customer Service Center and the SWS Call Center.	Concur	CCD will direct 311 and the SWS Call Center to refer all "parking in yard" complaints to APD.	Underway CCD Director will communicate with 311 Director and APD to ensure these cases are routed to the appropriate department.	Willie Rhodes - CCD Director 974-1970	March 1, 2010

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
05	<p>The Code Compliance Department Director should work to determine, with the Law Department, their authority to refer tenant complaints directly to the Housing Authority of the City of Austin without investigation. If allowed, the Department Director should establish a formal partnership with the Housing Authority of the City of Austin to ensure that CCD referred complaints are investigated for compliance, not only with minimum federal standards, but also with City Code.</p>	Concur	<p>Code Compliance to confer with the Law Department on the following matters:</p> <ul style="list-style-type: none"> ▪ determining authority of the City of Austin to apply local housing regulations to properties or units in federal program subject to federal minimum housing quality standards. ▪ clarifying jurisdiction between City of Austin Code Compliance and Housing Authority of the City of Austin as concerns housing complaints, investigations, and enforcement. ▪ identifying permissible options and/or methods for formalizing the roles and duties of each entity as concerns response to housing complaints to confirm appropriate action taken. 	Underway	Willie Rhodes - CCD Director 974-1970	To be determined

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
To improve program measures and increase the reliability of data,						
06	The Code Compliance Department Director should work with the Office of Communications and Technology Management (CTM) to find an integrated case management solution to manage all three department activities, Dangerous Buildings and Housing, Zoning Code Compliance, and Property Abatement, with a single point of entry that has capacity to interface with 311. The solution should provide appropriate technology controls to ensure data integrity and reliable and relevant reporting, while also providing an audit trail for complaints and cases.	Concur	<p>Meetings with CTM will be set up to discuss the technical scope, identify potential revisions to the current enterprise application AMANDA or the purchase of a new application and estimation of costs related to the implementation of an integrated case management solution to manage all three department activities with a single point of entry that has the capability to interface with 311.</p> <p>Based on initial meeting with CTM a draft plan of action will be created to research options and direction discussed.</p>	Underway	Terri Roberts - Assistant Division Manager - Admin Operations 974-1922	<p>Projected completion date to be determined based on research findings and implementation of chosen solution.</p> <p>First meeting date to discuss audit recommendation with CTM: March, 2010.</p>

Rec #	RECOMMENDATION TEXT	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
	In order to increase the effectiveness of the Code Compliance function in bringing negligent property owners to compliance,					
07	The Code Compliance Department Director in conjunction with the ACM over CCD should consider establishing a team to evaluate practices in other cities to determine what approaches will be beneficial in Austin.	Concur	<p>CCD has previously traveled to Dallas and Fort Worth to evaluate their enforcement practices.</p> <p>We are members of national and state Code Enforcement associations, and attend national conferences to evaluate, gather, share and present information on best practices.</p> <p>We will develop an internal team to evaluate our current strategies to review other cities.</p>	Underway	Willie Rhodes - CCD Director 974-1970	Internal team will be developed by April 1, 2010.

APPENDIX B

**OCA ANALYSIS OF FISCAL YEAR 2009 CODE COMPLIANCE
COMPLAINTS AND VIOLATIONS**

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OCA Analysis of Code Compliance Complaints and Violations

We analyzed data from the City's 311 system, the AMANDA database, and the CCTrack database. During fiscal year 2009, per 311 Customer Service, 311 provided 14,854 service requests to the Code Compliance function.

CCD maintains records using the AMANDA system for complaints falling under the budget categories Dangerous Buildings and Housing (Structure violations) and Zoning Code Compliance (Land use violations). The AMANDA system contains 7,965 complaint records initiated in fiscal year 2009. Per the AMANDA system, violations were found for 3,068 (approximately 38 percent) of these complaints. The remaining complaints were noted as cancelled, closed, invalid, or referred to another entity for resolution.

From these complaints, inspectors generated 3,471 violation cases, some of which resulted in multiple violations. Exhibit B.1 shows a breakdown by violation type for the 3,017 structural and 3,662 land use violations verified on these properties. The zoning deficiencies of "accessory uses" and "work without a permit" comprised the most noted violations.

We also analyzed information available in CCD's internal CCTrack database, which contains records for Property Abatement complaints. Our analysis indicated that the CCTrack system contains 8,169 complaint records initiated in fiscal year 2009. However, this number did not reconcile to the information from 311 and AMANDA.

Of the CCTrack complaint records, approximately 5,780 (71 percent) appeared to have related violations. Case records do not include notation indicating whether a complaint had violations, so we estimated the number of complaints with violations by subtracting records marked as unjustified (violations were not found) from the total records to arrive at this number. Given limitations of the CCTrack database, the 5,780 should be considered an estimate rather than an exact value for the number of complaints with violations.

Although Property Abatement cases are not categorized by case type in the CCTrack database, our review indicates that most cases fall into trash, tall/grass weeds and illegal dumping related cases. Other common property abatement case types are sidewalk obstructions and stagnant water.

Our analysis indicated that 99 percent of the cases initiated in fiscal year 2009 were marked as closed in CCTrack. However, only 87 percent of records classified as closed included information about resolution. For these records, CCTrack indicated that approximately 43 percent of the complaints were corrected by the owner, indicating voluntary compliance.

EXHIBIT B.1
Deficiencies Recorded for Structural and Land Use Violations

<i>Structure Violations</i>		<i>Land Use Violations</i>	
<i>Deficiency Category</i>	<i>Count</i>	<i>Deficiency Category</i>	<i>Count</i>
Structural Violation	409	Signs	605
Faulty Weather Protection	515	Prohibited Zoning Use	170
Electrical Equipment Violations	78	Certificate of Occupancy Required	162
Electrical Violations	257	Accessory Uses	1206
Mechanical Requirements	88	Site Development Regulations	178
Hazardous Plumbing	387	Temporary Uses	13
Inadequate Sanitation	75	Compatibility Standards	6
Fire Protection	10	Landscaping	1
Fire Protection Detector	83	Site Plans	83
Insect and Rodent Harborage	119	Commercial Uses	1
Handrail	29	Principal Use and Development Regulation	7
Exits Missing	2	Additional Requirements for Certain Uses	7
Exits Clearance	2	Non-Conforming Use	1
Exits Security	4	Mobile Homes	8
Space and Occupancy	10	Land Use	45
Improper Occupancy	14	Zoning Violations	51
Nuisance	300	Bed and Breakfasts	8
Fire Hazard	11	Work Without Permit	1,110
Faulty Materials of Construction	78	Total	3,662
Exits	9		
Dangerous Exists	19		
Dangerous Passageways	30		
Dangerous Material Strength	47		
Dangerous Collapse	85		
Dangerous Structural	70		
Dangerous Attractive Nuisance	113		
Dangerous Code Violation	26		
Dangerous Public Nuisance	36		
Dangerous Abandoned	37		
Substandard/Dangerous	74		
Total	3,017		

SOURCE: OCA Analysis of AMANDA data