



Lexington-Fayette Urban County Government  
OFFICE OF INTERNAL AUDIT

## **INTERNAL AUDIT REPORT**

DATE: February 11, 2014

TO: Jim Gray, Mayor

CC: Sally Hamilton, Chief Administrative Officer  
Glenn Brown, Deputy Chief Administrative Officer  
Derek Paulsen, Commissioner of Planning  
David Jarvis, Director of Code Enforcement  
Phyllis Cooper, Director of Accounting  
Susan Straub, Communications Director  
Urban County Council  
Internal Audit Board

FROM: Bruce Sahli, CIA, CFE, Director of Internal Audit  
Teressa Gipson, CFE, Internal Auditor

RE: Code Enforcement Billings & Abatement Process Audit

### **Background**

The Division of Code Enforcement is responsible for ensuring compliance with minimum maintenance and repair standards for all existing structures and properties throughout Lexington and Fayette County. Chapters 12 and 17 of the Code of Ordinances provide guidelines for penalties of non-compliance. Division staff performs inspections of residential and commercial structures to ensure they are maintained to the minimum standards set forth in the International Property Maintenance Code. The Division also addresses nuisances such as junk cars, garbage on lots, and weeds as directed by the LFUCG Code of Ordinances. In those instances where property owners fail to correct violations, Code Enforcement will abate the nuisance and/or assess civil penalties.

Abatement work is performed by independent contractors as directed by the Division of Code Enforcement. To be eligible for abatement work, all contractors must participate in the LFUCG Bid Process from which a Price Contract for abatement services is executed. Abatement contractors provide bid amounts by abatement categories (e.g. light mowing, debris removal, debris hauling) during the open bid process. Code Enforcement reimburses the contractor for the cost of abatement and passes the costs on to the property owner in the form of an invoice payable to LFUCG. A lien is placed against the property if the owner subsequently fails to repay LFUCG. There were 6,671 nuisance complaints and 3,185 housing complaints received during FY 2013.

The Code Enforcement Billings process was previously audited in 2005.

### **Scope and Objectives**

The general control objectives for the audit were to determine that:

- Processes for selecting abatement service contractors comply with applicable Policies & Procedures
- Processes for determining fees, penalties, and abatement costs related to code violations comply with the LFUCG Code of Ordinances
- Invoices issued to property owners for penalties and abatement costs are accurate and the generation of such invoices is properly managed
- Processes to document penalties & abatement costs provide sufficient support for actions taken by Code Enforcement
- Prior audit findings have been resolved

### **Statement of Auditing Standards**

We conducted our audit in accordance with the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the organization, program, activity or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions.

## **Audit Opinion**

In our opinion, the controls and procedures provided reasonable assurance that the general control objectives were being met. Opportunities to improve controls are included in the Summary of Audit Findings.

## **Priority Rating Process**

To assist management in its evaluation, the findings have been assigned a qualitative assessment of the need for corrective action. Each item is assessed a high, moderate, or low priority as follows:

High - Represents a finding requiring immediate action by management to mitigate risks and/or costs associated with the process being audited.

Moderate – Represents a finding requiring timely action by management to mitigate risks and/or costs associated with the process being audited.

Low - Represents a finding for consideration by management for correction or implementation associated with the process being audited.

## **SUMMARY OF AUDIT FINDINGS**

### **Finding #1: Complaint Files Need Improved Documentation**

**Priority Rating: High**

#### **Condition:**

The housing and nuisance complaint process is a time driven process initiated by a complaint with subsequent inspections to determine violations, followed by re-inspections to establish compliance. We noted that in some of the case files documentation did not exist or otherwise was not adequate to provide a complete picture of actions taken by Code Enforcement from the initial response to final resolution. During our review of housing files, we noted that 12 of 58 (21%) housing complaints were not resolved within the average timeframe of 90 to 120 days and documentation in the files was not adequate to explain the delay in compliance. The lack of file documentation gives the appearance that some homeowners should have been assessed civil penalties because there were no requests from the homeowners in the file to indicate extenuating circumstances. We also noted that in 5 of 58 (9%) files reviewed, the Housing Officer did not indicate on the inspection form that all violations had been corrected and/or the date of correction.

We also conducted a review of nuisance abatement files to determine if documentation was adequate to explain any delays in Code Enforcement's actions from the established guidelines. There were 10 of 35 (29%) nuisance files where the complaint was not responded to within two days or the nuisance was not abated and resolved within 30 days from the initial complaint. The files did not contain adequate documentation to indicate the cause for delays.

**Effect:**

Inadequate file documentation leads to a perception that inspectors and officers are not responding to issues timely and/or issues involving code violations are not resolved.

**Recommendation:**

We recommend Code Enforcement adhere to their Divisional Policy 04-001.5 for housing complaints which indicates extensions may be granted up to 90 days for health reasons, 60 days for financial hardship, 60 days upon written timeframes submitted by owner, and 90 days for weather. We recommend that Code Enforcement also adhere to their Divisional policy 99-002 for nuisance abatement which states that complaints must be responded to within 48 hours, and all notices generated from non-compliance for nuisances must be re-inspected within 14 days. We understand that the policies/guidelines as mentioned only provide timeframes for the average case; however, documentation should be required in all cases, especially when there are issues that cause deviations from the normal timeframes.

**Director of Code Enforcement Response:**

All Code Enforcement complaints are taken through LexCall with time and date of complaint. The case is then assigned to an Inspector and an inspection is initiated, these actions are noted in the hard files as well as updated in the LexCall system. Inspectors often maintain their own notes, correspondences and reasons for extensions either on the laptops, desk computers or hard copy notes. In order to rectify the issues outlined in finding 1 with respect to documentation of extensions we will be doing two things. First, we have taken steps through our current SOP's to require the Inspectors to elaborate in the hard files of any extensions, or deviation of our normal process. This will improve our documentation of inspections. Divisional policy SOP # 99-002 establishes the 48-hour response guideline and this is the goal we strive to meet on a daily basis. We will be working to improve the response times through management and technical improvements. In cases where it is not always possible to abate a nuisance within the 14 day period (locked gates, weather, or other) we will be requiring all inspectors to document thoroughly any reasons for this variance. Secondly, we will be working with Commissioner Paulsen on implementing a new Code Enforcement data management system that will allow for better documentation and follow up than our current system. We feel that a new system will greatly improve our ability to

standardize both our documentation and our inspection times. In addition, this new system will help to address concerns raised in the “risk observation” component of the audit.

**Commissioner of Planning Response:**

I agree with this finding of the audit and believe that the improved documentation through a new SOP will work to mitigate future issues. In addition, I feel strongly that a new data management system will help to alleviate root causes of the documentation issues. We will be working within the FY2015 budget to implement this new system.

**Finding #2: Nuisance Abatement Project Issues**

**Priority Rating: High (Repeat Finding from 2005 Audit)**

**Condition:**

Purchasing procedures do not require bids for specific abatement work because all abatement contractors have Price Contracts with LFUCG. However, Code Enforcement has implemented an internal policy, Contractor Usage 97-004 revised October 9, 2008, which requires inspectors to obtain bids for any abatement deemed to be over \$250. Our detail testing noted an inconsistent approach to awarding projects by alternating contractors and/or not bidding a project between all available contractors, as well as confusion on when to bid projects.

We examined a sample of nuisance abatement projects occurring during FY 2013. We stratified our sample to examine all abatement invoices exceeding \$300 for a total of 25 projects, and also randomly selected 35 additional projects for the purposes of our detail testing. From our examination of these 60 projects, there were 18 of 60 (30%) files that did not contain a contractor bid sheet, indicating the abatement was not bid among all available contractors. Thirteen of the 60 (22%) files did not contain the Contractor of Analysis forms, which would have been used to perform a comparison of the quoted hourly bid fee to invoice price. We also noted that 9 of 60 (15%) bid sheets were not signed by the Nuisance Control Officers to certify the bid results were obtained. Additionally, 6 of 60 (10%) of those files did not contain before and/or after pictures to demonstrate the source of the abatement issue and/or the subsequent cleanup.

We also identified 8 of 60 (13%) nuisance abatements whose costs appeared to be excessive based on the total amount charged by the contractor. Of these, there were four instances where there was only one contractor who bid on the job, and either the pictures were inadequate to show the detail of the nuisance or the job appeared to be billed at an excessive rate. We also noted three projects that had excessive abatement costs an only one bidder, and one project with excessive abatement costs and no bid sheet.

**Effect:**

Abatement costs (which are passed in full to the property owners), may not be contained when bids are not sought on all nuisance abatements and invoice pricing may not be analyzed. Failure to include before and after abatement pictures in the files results in inadequate transparency and justification for expenses.

**Recommendation:**

We recommend that current procedures be updated to ensure inspectors consistently bid or re-bid all nuisance abatements. In the event of 24 hour abatement, current procedures should be followed to clearly document the urgent situation and how and why it was abated. Procedures should also include a requirement that all contractor abatement invoices be compared to the original bid amount to ensure all invoices billed to property owners are limited to the lower of bid or actual cost. Code Enforcement's Contractor Analysis of Charges form used by contractors to provide detail of abatement costs should be amended to reflect all cost categories listed on the Price Contract to enhance the efficiency of invoice price reviews and the forms should be signed by the Code Enforcement Officer. We also recommend that contractors be instructed to provide a limited numbers of pictures from different property angles to adequately show the abated property before and after the abatements are complete. Management may also want to consider requiring inspectors to maintain file pictures of the nuisance violation for adequate documentation in the event of a dispute.

**Director of Code Enforcement Response:**

As with any other Division, the Contractor's that Code uses are not LFUCG employees and at times it is difficult to have each of them adhere to our strict guidelines. We work with them every day to improve their process and even withhold payment if their work or documentation is not up to our standards. We have taken the following corrective steps to ensure all documentation is correct and all abatement contracts follow our guidelines.

Corrective steps:

1. All nuisance abatement is set out to bid and all of the approved contractors have the right to bid. No bids will be noted in the case files.
2. All contractors must submit before and after photographs from the same vantage points of all abatement work performed, all debris and multiple containers of debris must be photographed. Lack of appropriate photographs will negate payment of the abatement. No exceptions.
3. Inspectors will now take their own before and after photographs to ensure compliance with the guidelines. These photographs will be made part of the hard copy record.
4. Contractors must submit dump tickets from yard or transfer stations to receive payment for debris hauling.

5. All contractor bid requests, bid sheets, no bids and final invoices must be signed by the Inspector and the Contractor in order to be valid and before contractor is compensated. No exceptions.
6. All contractor bid sheets will be reviewed by the Inspector to ensure accuracy and contract unit pricing.
7. All contractor bid requests and submittals shall be sent via e-mail and a hard copy kept in the abatement file.
8. Contractors shall have bids submitted within 24 working hours after receiving the request.
9. Emergency and large unenforceable abatements may not be bid if they demand immediate attention. In this event 2 capable contractors will be selected depending on equipment, manpower and resources needed and must respond within 30 minutes of contact. The emergency contractor may be notified and selected using the Division of Purchasing approved contract up to \$1,000 with Director of Code approval.
10. Inspectors will fill out the unenforceable or emergency abatement form noting the situation, foreclosure, sit outs, public safety issue, and this will be approved by the Supervisor or Director and included in the hard file.
11. Inspectors will include in the hard file, photographs, correspondence, re-inspection forms, time extensions, e-mails or letters in writing of requested extensions, unenforceable or emergency forms, bid requests and any and all correspondence related to the case and maintained in the hard file.

**Commissioner of Planning Response:**

I agree with the finding of the audit and believe that the corrective measures laid out in steps 1-11 of the response will help to mitigate problems.

**Finding #3: Housing Civil Penalty Needs Improved File Documentation**  
**Priority Rating: High**

**Condition:**

Housing Officers did not maintain adequate pictures in Civil Penalty Housing files. There were 4 of 15 (27%) instances where detailed documentation of the housing violation was not visible prior to the homeowner being assessed penalties because pictures were not maintained in the file to provide visual evidence of the noncompliance.

**Effect:**

Not having adequate visual documentation may impede appeal verdicts in favor of the city.

**Recommendation:**

We recommend that the Divisional Civil Penalties 99-003 policy be updated to include the requirement that Housing Officers take pictures of all major housing violations, when practical, to provide visual documentation of the code violation. These pictures should remain as part of the permanent file.

**Director of Code Enforcement Response:**

Informally, Code Enforcement maintained adequate notes and pictures that were kept with the Inspector. Subsequently, we have updated the policy to require all photos and notes of major housing violations to be included in the hard files where possible. When on occasion property owners do not allow access to the Inspectors for re-inspection purposes and photo documentation isn't possible, we will document this situation and the reasons for no photo evidence and then impose the specified civil penalty. All photographs of housing violations will be maintained in our hard files.

**Commissioner of Planning Response:**

I agree with the findings of the audit and believe that the course of action described in the Code Enforcement response will help to mitigate any future problems.

**RISK OBSERVATION**

Standards for the Professional Practice of Internal Audit stipulate that it is the Office of Internal Audit's responsibility to inform management of areas where risk to the organization or those it serves exist. The following observation identifies a risk associated with the Code Enforcement inspection process that does not represent a violation of statutes or policies. It is considered to be of sufficient importance to deserve mention in this report to ensure senior management's awareness.

**Electronic Devices Needed for Field Inspectors**

Code Enforcement would benefit from having access to a real-time system while in the field conducting inspections. According to a Nuisance Inspector, LexCall may receive multiple calls for one area, sometimes on the same day; however, the call may not be given to the inspector until the following day. This means that the inspector will have to return to the same area as the previous day for inspection. If the inspector had been notified of the complaint in real time, an inspection could have been conducted on additional properties while he was in the area. This would prevent multiple trips to the same neighborhood on subsequent days. Additionally, having access to PVA and the Code Enforcement System while in the field could provide instant history on a particular property and may decrease the

need for redundant paperwork by the inspector. This inspector also stated that other municipalities have access to various programs in the field which allow inspectors to immediately serve notices and inquire about properties and their histories without returning to the office.

Having interactive devices in the field could also increase on-site documentation by the inspector that would become part of a permanent file for the property. This practice could also improve file documentation issues noted as deficient during the audit.

**Director of Code Enforcement Response:**

We couldn't agree more that Code Enforcement would greatly benefit from in field access to real time data. We could greatly increase our efficiency and documentation process. We are currently working with Commissioner Paulsen to implement a new data management system that will allow for real time data access and documentation while in the field.

**Commissioner of Planning Response:**

We are currently working to implement a new data management system that will allow for in-field documentation and record keeping. It is my belief that this system will allow for greater standardization in documentation and inspection of properties and increase overall efficiency and effectiveness of Code Enforcement. While this new data system and accompanying mobile devices are a designed as intermediary step before a planned implementation of a more complete data management system, it is my belief that the system will be a great improvement over current methods. This is a top priority for Code Enforcement in FY2015.