

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 07/25/05
Department Name: CEO
Department No.: 012
Agenda Date: 08/09/05
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Michael F. Brown
County Executive Officer

STAFF CONTACT: Lori Norton, Analyst
X 3421

SUBJECT: Board of Supervisors Response to 2004-05 Grand Jury Report – “A Good Neighbor Policy”

Recommendations:

That the Board of Supervisors:

- A. Adopt the Housing and Community Development Department responses to Findings 1 and 2 and Recommendation 1a and 2, as the Board’s responses to the 2004-2005 Grand Jury Report “ A Good Neighbor Policy – Santa Barbara County’s Inclusionary / Affordable Housing Monitoring Program”
- B. Adopt the proposed response to Recommendation 1b as the Board’s response.
- C. Authorize the Chair to execute the letter (Attachment 1) transmitting the Board’s responses to the Presiding Judge and the Jury Foreperson.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with the Board of Supervisors’ Strategic Goal # I : An Efficient Government Able to Anticipate and Respond Effectively to the Needs of the Community.

Executive Summary and Discussion:

The Grand Jury Report (Attachment 2) was released on June 3, 2005. In accordance with Penal Code Section 933(c), the governing body of the agency (Board of Supervisors) must respond within 90 days after issuance of the Grand Jury report. Consequently, the Board of Supervisors’ response must be finalized and transmitted to the Presiding Judge of the Courts no later than September 1, 2005.

Generally, Grand Jury Report responses are placed on the Departmental Agenda. Due to the non-controversial nature of the report, response, and the Board's constrained meeting schedule during the month of August, the item has been placed on the Administrative Agenda for August 9, 2005. This will allow the Board two opportunities, if necessary, to discuss and adopt a response. If desired, the Board may direct staff to schedule the item for discussion on August 16, 2005.

The "A Good Neighbor Policy" Grand Jury Report contains 2 Findings and 2 Recommendations. The Housing and Community Development Department and the Board of Supervisors are the only required responses for Santa Barbara County. In addition, The City of Santa Barbara Community Development Department is required to respond directly to the Grand Jury.

The Housing and Community Department submitted their response to the Grand Jury on July 22, 2005. It is recommended the Board adopt the Housing and Community Development Department's responses (Attachment 3), as the Board's responses to those finding and recommendations. Housing and Community Development agrees with findings 1 and 2, and has implemented recommendations 1a and 2.

In addition to the above, the Board of Supervisors is the sole required respondent to recommendation 1b which is as follows: **"The Housing and Community Development Department needs more staff dedicated to the monitoring program. The Board of Supervisors should fund sufficient support staff positions."** Following is the proposed response to this recommendation to be considered by the Board:

The recommendation will not be implemented because it is not warranted at this time; however, it may be considered at a later date. On May 3, 2005, the Board of Supervisors received a report on the Affordable Housing Program compliance monitoring by the Housing and Community Development Department. At the conclusion of the report, the Board directed the County Auditor-Controller to design a plan for a baseline audit of the compliance monitoring program and to return to the Board with suggested parameters for such an audit. Further, the Board directed that a project team consisting of the County Executive Officer, the Auditor-Controller, County Counsel and the Housing and Community Development Director conduct a management review of the compliance monitoring program and return to the Board with recommendations as appropriate. If, as a result of the above, it is determined that the Department needs more staff dedicated to the program, the Board may implement the Grand Jury's recommendation.

Mandates and Service Levels:

California Penal Code Section 933(c) requires that no later than 90 days after the Grand Jury submits a final report on the operations of a public agency, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under their control. These comments, in and of themselves, do not change existing programs or services levels.

Fiscal and Facilities Impacts:

The recommended responses do not have a fiscal or facilities impact.

Special Instructions:

The response of the Board of Supervisors must be transmitted to the Presiding Judge of the Superior Court no later than September 1, 2005. The Clerk of the Board is requested to return the signed letter to Brenda Castillo, County Executive Office, for distribution to the Superior Court. The signed letter, written responses and a 3-1/2" computer disc with the response in Microsoft Word must be forwarded to the Grand Jury.

Attachments:

1. Board of Supervisors Transmittal Letter
2. 2004-2005 Grand Jury Report – "A Good Neighbor Policy"
3. Housing and Community Development Response

C: Charles Foley, Foreperson, 2004-2005 Civil Grand Jury
Ron Cortez, Deputy County Executive Officer
Ed Moses, Director, Department of Housing and Community Development

August 9, 2005

The Honorable Judge Anderson
Superior Court
1100 Anacapa Street
Santa Barbara, CA 93101

Santa Barbara County Grand Jury
Charles Foley, Foreperson
1100 Anacapa Street
Santa Barbara, CA 93101

Board of Supervisors' Response to FY 2004-05 County Grand Jury Report titled: "A Good Neighbor Policy" Santa Barbara County's Inclusionary / Affordable Housing Monitoring Program

Dear Judge Anderson:

During its regular meeting on August 9, 2005, the Board of Supervisors adopted the responses (Attached) of the Housing and Community Development Department as its responses to Findings 1 and 2, and Recommendations 1a and 2 in the 2004-05 Grand Jury Report— "A Good Neighbor Policy" Santa Barbara County's Inclusionary / Affordable Housing Monitoring Program.

In addition to the above, the Board of Supervisors is the sole required respondent to Recommendation 1b which is as follows: **"The Housing and Community Development Department needs more staff dedicated to the monitoring program. The Board of Supervisors should fund sufficient support staff positions."** Following is the response to this recommendation adopted by the Board:

The recommendation will not be implemented because it is not warranted at this time. However, it may be considered at a later date. On May 3, 2005, the Board of Supervisors received a report on the Affordable Housing Program compliance monitoring by the Housing and Community Development Department. At the conclusion of the report, the Board directed the County Auditor-Controller to design a plan for a baseline audit of the compliance monitoring program and to return to the Board with suggested parameters for such an audit. Further, the Board directed that a project team consisting of the County Executive Officer, the Auditor-Controller, County Counsel and the Housing and Community Development Director conduct a

management review of the compliance monitoring program and return to the Board with recommendations as appropriate. If, as a result of the above, it is determined that the Department needs more staff dedicated to the program, the Board may implement the Grand Jury's recommendation.

The Board thanks the Grand Jury for its report and its interest in this important matter.

Sincerely,

Susan Rose
Chair, Board of Supervisors

Attachment

C: Ron Cortez, Deputy County Executive Officer
Terri Maus-Nisich, Assistant County Executive Officer
Ed Moses, Director of Housing and Community Development

Housing and Community Development Department



Housing Development Division

Edward Moses
Director

Susan Everett
Affordable Housing Program


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MEMORANDUM

DATE: Friday, August 05, 2005

TO: Office of the Grand Jury

FROM: Ed Moses, Director 

RE: Response to 2004-2005 Santa Barbara County Grand Jury Final Report *A Good Neighbor Policy*

Finding 1: The Housing and Community Development Department agrees with the finding.

Response to Finding 1: The Board of Supervisors directed the Auditors-Controller to undertake an audit of the County's Housing and Community Development Department on April 19, 2005. A project team has been formed which includes team members of the Auditor-Controller staff, Mr. Mark Paul and Mr. Bob Geis; the County Administrator, Mr. Mike Brown; Chief County Counsel, Mr. Shane Stark and Housing and Community Development director, Mr. Ed Moses. The Auditor-Controllers office has the review well underway and will be presenting their findings to the Board of Supervisors in September, 2005.

Recommendation 1a: Recommendation 1 has been implemented.

Response to Recommendation 1a: The County currently communicates with affordable homeowners in writing once to twice a year. Every communication contains the affordable housing programs phone number and homeowners are encouraged to call with any questions or comments. The affordable housing program staff person will call homeowners should a need arise or personal communication be necessary. Upon Board of Supervisors approval, Housing and Community Development will implement any recommended changes made by the project team.

Finding 2: The Housing and Community Development Department agrees with the finding.

Response to Finding 2: The City of Santa Barbara Community Development Department does have a successful program. The County of Santa Barbara also has a very successful program which has been modeled closely to many aspects of the City of Santa Barbara's program. When Housing and Community Development Department initiated monitoring by an annual occupancy survey in March of 2004, the form the County created was modeled after the City's annual occupancy form.

The findings included a statement that the City of Santa Barbara Community Development Department was found to have regular interaction with the affordable homeowners. Housing and

Community Development started the monitoring program in March, 2004, so the County of Santa Barbara now has regular contact with affordable homeowners through the annual letter containing the occupancy survey and the affordable homeowners. The letter encourages homeowners to contact the affordable housing program coordinator at any time with questions or comments. All phone calls are returned.

The County of Santa Barbara's affordable housing program coordinator meets with every prospective affordable housing homeowner prior to their home purchase to discuss the conditions and terms of the restrictive covenants they will sign.

The Grand Jury combined two different County housing programs in the section heading A *Comparison Model*. Housing and Community Development Department has a Housing Assistance Program (HAP) and an Affordable Housing program. The HAP, which provides gap down payment financing to prospective North County homeowners, holds bi-annual seminars to discuss homeownership and the aspects of the down payment assistance. The Affordable Housing program coordinates and monitors for-sale and rental housing created by the County Inclusionary Housing Program. The HAP is a separate program from the Affordable Housing Program and the two programs cannot be combined for purchase of a home.

The City of Santa Barbara's program has had consistent management for a number of years. The program's manager has held that position for at least ten years. She also has staff which assists her in the management of their affordable housing program. The Counties Affordable Housing Program has been within several county departments over the past ten years and the single position has been held by a series of staff persons who tend to remain in the position for two years or less. The current affordable housing program manager is the first to implement and formalize a monitoring procedure when the Housing and Community Development director recognized the need for closer overview of the compliance with the covenants.

The City of Santa Barbara Community Development Department affordable program manager also has the support of their legal counsel, who is willing to aggressively enforce covenants.

Recommendation 2: Recommendation 2 has been implemented.

Response to Recommendation 2: The County of Santa Barbara established an occupancy and monitoring program with the input and advice of the City of Santa Barbara Community Development Departments affordable housing program. The occupancy form sent yearly to homeowners was modeled directly from the cities form. Upon Board of Supervisors approval, Housing and Community Development will implement any recommended changes made by the project team.

A GOOD NEIGHBOR POLICY

SANTA BARBARA COUNTY'S INCLUSIONARY/ AFFORDABLE HOUSING MONITORING PROGRAM

Throughout the County and in this report, the terms inclusionary housing and affordable housing are used interchangeably. This report refers to home ownership only and does not include rental units or their monitoring.

Introduction

An inclusionary housing program addresses the fact that housing for low and very low income residents would not be built if left to natural market forces. The California State Government requires that communities plan for housing for all segments of the population. The County's Inclusionary Housing Program requires developers to include some housing units in new projects that are affordable to moderate, low, or very low-income residents. The County gives incentives for building such housing by allowing for greater densities and imposing fees when affordable housing is not included in developments. The County of Santa Barbara has had this type of affordable housing program since 1981. There are approximately 700 homes in the County's affordable housing ownership program.

When revisions to the Inclusionary Housing Program were debated before the Board of Supervisors during the summer and fall of 2004, some members of the public complained that the County's Housing and Community Development Department was neither monitoring its housing program nor enforcing housing contracts. Critics also argued that the Department did not follow through on reports of violations by homeowners in the program. Violations are an abuse of taxpayer money and of the public trust.

The Housing and Community Development Department had developed formal procedures for a monitoring and enforcement program, but it did not receive funding for the program until October 2004. In May 2005, the Department gave a progress report to the Board of Supervisors. An immediate reaction from some Board members was that the monitoring program was inadequate. The Supervisors formed a project team consisting of the Auditor-Controller, the County Administrator and the County Counsel's office. This team will do an audit of the program, conduct a management review and, by extension, look at the efficacy of the Inclusionary Housing Monitoring Program. A report from this project team will be issued sometime in the summer of 2005.

The Santa Barbara County Civil Grand Jury looked at the troubled history of the Housing and Community Development Department's Monitoring Program. The Jury then compared the County's monitoring program with that of the City of Santa Barbara and found potential areas for improvement.

Investigation

The Grand Jury received several complaints regarding the Inclusionary Housing and its Monitoring Program. In its investigation, members of the Jury:

- Attended the Board of Supervisors meetings in which the Inclusionary and Monitoring Programs were debated
- Interviewed four County Supervisors, past and present
- Interviewed a deputy director and two planners in the County Planning and Development Department
- Interviewed the County Administrator, the Auditor-Controller and the County Counsel
- Interviewed the Director of the Housing and Community Development Department and the Affordable Housing Coordinator for the County
- Interviewed the Housing and Redevelopment Manager, the Housing Programs Supervisor and the Housing Programs Specialist for the City of Santa Barbara
- Interviewed a member of the Board of the County Housing Authority
- Spoke with two officials at the Santa Barbara County Association of Government
- Attended neighborhood meetings and interviewed several spokespersons from neighborhood watch groups
- Reviewed the 1997-1998 Grand Jury report on affordable housing

Program History

Originally, Santa Barbara County's affordable housing program, including the Inclusionary Housing Program, was part of the County Planning and Development Department. A portion of the program was later given to the County Treasurer's Department with the thought that it could better manage the financial dealings of the County's housing program. The Treasurer's Department did not, however, monitor compliance of existing housing covenants¹. The monitoring and enforcement program remained with the County's Planning and Development Department. Several County officials agreed that prior to 2004 monitoring of the covenants was haphazard.

In August 2001, the County created a Housing and Community Development Department (HCD) for central control of County housing programs. A director for the

¹ Covenants are clauses within the homeowners' contracts with the County; the major requirements are that the housing units must be owner occupied and that sales of units be restricted. The two main restrictions are that only certified applicants can purchase the property and that the sales price cannot go over the limit for affordable housing.

new department was not hired until December 2002, nor was an employee to specifically manage the affordable housing ownership program hired until August 2003. HCD took over monitoring and enforcement from the Planning and Development Department at that time.

County of Santa Barbara - Housing and Community Development

When hired, the new director of the Housing and Community Development Department began working with the County Counsel's office to standardize contracts and provide language that would allow stronger enforcement of the covenants. HCD also began working with the County Counsel's office to create a formal monitoring program. The County Counsel's office advised that written notification procedures must be in place before HCD could proceed with rigorous monitoring and enforcement. County Counsel and HCD continued systematizing contracts and regulations until March 2004. The Department then presented a formal monitoring and enforcement program to the Board of Supervisors. When funded in October 2004, HCD began implementing its monitoring and enforcement program.

During this interim period when HCD's monitoring and enforcement programs were being developed, homeowners in the program and members of the public saw no increased program supervision. This long delay in enforcing program regulations gave the impression that no action was being taken on complaints. When criticized in public meetings, the response from HCD officials was that there was no formal process in place to monitor and investigate alleged violations.

The new formal process involved sending letters to 261 homes, asking to re-certify home occupancy and verify any sales of property. These letters are mailed with "Owner Signature Only" and "Do Not Forward" directives. Another 377 letters were sent to advise South County residents of possible random inspections. Of those 377, a contracted employee of a law firm, accompanied by a security guard, visited forty homes randomly selected by a computer. Roughly half of the \$37,000 budget for the monitoring program was expended in these first letters and site visits. HCD promotes this new process as pro-active, hoping that letters announcing random visits will prevent violations.

The Department will follow up on those homeowners that did not respond to the first letter (20 out of 261) and on those sites thought not to be in compliance (4 out of 40). This initial 10% rate of possible non-compliance caused alarm among Board members. Of the four cases the law firm's employee submitted for review, the affordable housing coordinator already knew of two from neighbors' complaints. Historically, the program has relied on neighbors to lodge complaints about violations. Typical complaints have been owners exceeding occupancy limitations, transferring the title of the house to another family member, illegally renting out parts of the house such as the garage, subletting the house, or refinancing at market rates. The director reported receiving 10 such complaints in 2004 and 4 more from the beginning of 2005 to the time of the May presentation to the Board.

HCD has been understandably cautious in enforcing regulations. The County Counsel's office advises that it is very difficult to force homeowners to lose their property. A bank may foreclose on a homeowner within the program in the event of default of payment. However, the County must proceed more carefully in forcing sale of property by violators of covenants. Even though the covenants have always outlined regulations regarding owner occupancy and resale, covenants distinguishing renting from subletting and refinancing from resale have not been uniform or clear over the years. The County Counsel's office has been reluctant to prosecute homeowners in violation of those covenants. Up to this point no homeowner in the County's program has been forced to sell as a result of covenant enforcement.

The County Housing and Community Development Department is a relatively new department. It inherited a mosaic of housing units and covenants, all under previously lax supervision. In defining a stronger monitoring and enforcement program, County Counsel and HCD looked to the City of Santa Barbara's housing program as a model for its own and borrowed much of its language. It will take more time for the County to develop the expertise necessary to make its program as successful as is the City of Santa Barbara's program.

A Comparison Model

City of Santa Barbara - Community Development Department, Housing & Redevelopment Division

There are 107 cities in California, Santa Barbara among them, that have some form of inclusionary housing program. The City of Santa Barbara's Inclusionary Housing Program also began in the early 1980s and now has about 320 homeowners. Its program and contracts were skillfully developed by someone in the Housing and Redevelopment Division who had experience as an attorney and real estate broker. The current Housing Programs Specialist was formerly an escrow officer. There exists a built-in working knowledge of the language of the contracts. More than this legal knowledge, however, the Housing Programs Specialist emphasizes regular interaction with the homeowners. Communication is vital to the program. For example, the lottery to draw names of successful applicants is held during a public reception, rather than the impersonal random computer drawing of the County. Greater contact at the beginning of homeownership also comes through meetings and phone calls. Before signing the ownership contract, the City's program specialist goes over it with the new homeowner. The covenants merit detailed discussion with the new owner. The County's HCD program, on the other hand, holds a class regarding home purchasing once a year and does not consider it to be the Department's duty to train occupants in the responsibilities of home ownership. Both City and County Departments send out yearly recertification letters. However, if letters are not received back, the City's program specialist makes phone calls or personally goes to the home. Because of the acquaintance with homeowners, there has been little reluctance to visit homes and thus little reliance on third party observers.

Moreover, the City of Santa Barbara's Housing and Redevelopment Division finds the affordable housing component important enough to staff with an affordable housing

program specialist and two clerical support positions. The clerks are able to do the time-consuming work of sending letters, verifying responses, and receiving phone calls. They also are occasionally sent to look at requests for notice, deeds of trust and other recorded documents that would show that a housing unit has been sold, refinanced or transferred. Extra staff ensures that they are able to follow up on all complaints. In fact, the City Administrator receives a report saying which staff member is working on the complaint. Staff can commit such time to constant supervision of affordable housing only if there are enough people to do the work.

The Housing and Community Development Department at the City of Santa Barbara feels it has a responsive legal department. It is in contact with legal counsel as much as is the County HCD. Yet there is a significant difference. The City has foreclosed on three violators of the inclusionary housing program covenants, in addition to bank foreclosures. A City official called such foreclosures "key to the credibility of the program."

Conclusion

The Housing and Community Development Department is an advocate for affordable housing, bringing into Santa Barbara County housing for all segments of the population and funding for that housing. In promoting affordable housing, the Department has had problems with public relations. These problems have overshadowed the good work of the Department. The Housing and Community Development Department has now set up its monitoring program and should be able to focus on its implementation. Of the many homeowners in the inclusionary housing program, a large majority complies with the covenants. In time, the County's affordable housing program officials should come to know those homeowners in the program and be able to provide the service and the supervision that the program needs. The County's Inclusionary Housing Monitoring Program needs to be enforced in order to gain credibility in the eyes of the public.

Findings and Recommendations

Finding 1

The Board of Supervisors directed a project team comprised of the Auditor-Controller, the County Administrator and the County Counsel's office to review the County's Housing and Community Development Department, in particular its monitoring and enforcement program.

Recommendation 1a

The project team and the Housing and Community Development Department should look beyond formal monitoring processes. Processes that include communication with homeowners should be implemented.

Recommendation 1b

The Housing and Community Development Department needs more staff dedicated to the monitoring program. The Board of Supervisors should fund sufficient support staff positions.

Finding 2

The City of Santa Barbara appears to have a successful monitoring program.

Recommendation 2

The Housing and Community Development Department should consider adopting similar program initiatives.

Affected Agencies**Board of Supervisors**

Finding 1
Recommendation 1b

Santa Barbara County Housing and Community Development Department

Finding 1, 2
Recommendation 1a, 2

City of Santa Barbara Community Development Department

Finding 2