

Fourth District Supervisor Adam's Proposed Additions To Staff-Drafted Division 14 of Chapter 21 Of County Code

Staff is proposing to add a new Division 14 to the County Code dealing with violations of the Subdivision Map Act. Supervisor Adam proposes that the underlined text be added to the text proposed by staff. Supervisor Adam proposes no deletions.

The additions proposed by Supervisor Adam are intended to accomplish the following:

- Make County Code more closely reflect the State statute.
- Require that the County make available to the Applicant records of Building Permits that would validate the legality of the parcel.
- Require that decision makers state the facts and law relied upon in reaching a decision.

D. Division 14 of Article 1 of Chapter 21 of the Santa Barbara County code is added as follows:

Division 14. – Notices of Violation

Section 21-71.50. - Purpose and intent.

A. Notices of Violation. This division provides procedures of issuing notices of intent to record notice of violation and to record notices of violation of California Subdivision Map Act or subdivision violations of this Chapter of the County Code. Notices of Violation are governed by provisions of California Government Code Section 66499.36 and this Division.

Section 21-71.51. - Applicability.

A. Notices of Violation. A Notice of Violation is a document issued by the county surveyor and recorded by the county recorder which serves as a constructive notice of violation to all successors in interest in a real property that the property has been conveyed in violation of the California Subdivision Map Act or this Chapter. Reconveyance of a property with a Notice of Violation recorded against it is a further violation of the law. No permit or approval may be issued by the County for a property with a Notice of Violation prior to clearance of the violation by use of a Conditional Certificate of Compliance, resubdivision or other affirmative action or approval by the County provided that the decision maker finds that such development would be contrary to the public health and safety.

Section 21-71.52 - Processing

A. The County Surveyor shall make a preliminary determination that a property has been divided in violation of the Subdivision Map Act or this Chapter. Upon such preliminary determination the procedures as outlined in this section shall be implemented. Preliminary determination of a subdivision violation may arise as follows:

1. If a property is determined to be illegally divided pursuant to an application for a Certificate of Compliance under Division 13 of this code and the owner does not apply for a Conditional Certificate of Compliance within 30 days of notice of the determination of illegality.
2. If a County agency or officer becomes aware that a property has been subdivided in apparent violation of the Subdivision Map Act or this Chapter and reports said violation to the County Surveyor.
3. If a complaint by a member of the public is made to the County Surveyor and a preliminary determination supports such complaint of an illegal subdivision of land.

The preliminary determination by the county surveyor shall include a review of prior actions by the County concerning the parcel and a search for any permits that may have been issued for the property that might legalize the parcel pursuant to California Government Code Section 66499.35(c).

- B. Upon such preliminary determination of a violation the county surveyor shall mail by certified letter to the then current owner or owners of record of the property a notice of intention to record a notice of violation, describing the real property in detail including the nature of the violation, naming the owners thereof, and stating that opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the county surveyor why the notice should not be recorded. The notice shall also contain a description of the violations and an explanation as to why the subject parcel is not lawful under subdivision (a) or (b) of Section 66412.6. The notice shall describe the evidence upon which the county surveyor is relying and inform the owner that this evidence is available for inspection. The notice shall include a statement that there has been no issuance of a permit that might serve to legalize the division pursuant to California Government Code Section 66499.35(c). All documents including those leading to the initiation of preliminary determination shall be available to the owner.
- C. The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the county surveyor of his or her objection to recording the notice of violation, the county surveyor shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the county surveyor shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the county surveyor determines that the property has in fact been illegally divided, the county surveyor shall record the notice of violation with the county recorder not sooner than fifteen days thereafter. The Surveyor shall prepare and issue a document with the findings of facts and legal authority supporting the Surveyor's decision.
- D. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index.
- E. Should the owner disagree with the determination of the County Surveyor, that owner may appeal within fifteen days of the County Surveyor's written determination to the Board of Supervisors pursuant to Section 21-71.4.2 of this Code. The Board shall support its decision with written findings of the facts and legal authority supporting the Board's decision.