



Yuba County Grand Jury 2011-2012

UNAUTHORIZED CHANGES IN BUILDING PERMIT FEES



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UNAUTHORIZED CHANGES IN BUILDING PERMIT FEES

SUMMARY

After receiving a citizen complaint that the County Building Department was charging fees that were inconsistent with those that had been adopted and approved by the Board of Supervisors, an inquiry into the complaint was initiated by the Grand Jury. During the inquiry, several elected officials, county employees and the complainant were interviewed. In addition to the interviews, public records were obtained and reviewed that substantiated the complaint. Upon completion of the inquiry, it was determined that the Chief Building Official provided reduced fees only to certain residential and commercial enterprises. Further, we found no evidence that the Chief Building Official had approval from the Supervisors to provide the reduced fee. The Building Department lost money as a result of the reduced fees.

GLOSSARY

BOS	Board of Supervisors
CDSA	Community Development Services Agency
CBO	Chief Building Official

BACKGROUND

The Yuba County Administrative Policy and Procedures Manual, Policy No.B-2, Charges for County Services, states the following:

“Whenever a department is planning to provide a service for which there shall be a charge, that department shall calculate a fee or rate and request the review of the County Administrator before submission to the Board of Supervisors (BOS). **No fee may be charged unless approved by the BOS through County ordinance under the Consolidated Fee Schedule.**” (emphasis added)

The Consolidated Fee Schedule is Chapter 13 of the Yuba County Ordinance Code.

The Grand Jury received a complaint stating that, during the years 2007 to 2009, a certain building permit fee had been cut in half without the authorization of the BOS. The complaint went on to state that this “half fee” was supposed to be available only to individual residential owners for construction projects performed by them on their own property. Further, documents submitted to the Grand Jury by the complainant showed that a member of the public, with a commercial construction project, also benefited from the “half fee.”

The Grand Jury conducted an inquiry because:

- permit fees may have been reduced without authorization from the Board of Supervisors,
- this reduced fee may not have been equally available to every construction project within the County, and
- the Building Department may have lost money as a result of the unauthorized fee reduction.

APPROACH

The Grand Jury conducted interviews, including the complainant, three County Supervisors and two employees within the Community Development Services Agency.

The following written material was reviewed:

Yuba County Administrative Policy & Procedures Manual "Charges for County Services" Section

BOS minutes of all meetings from 2004 and 2009

Special report of building permits issued from 2005 and 2008, which made use of the "half fee"

DISCUSSION

The Grand Jury received a complaint alleging an unauthorized reduction of a certain building permit fee took place between 2005 and 2008. The allegation is that the building permit fee for residential construction projects, performed by owners of personal residences, was cut in half during this timeframe. The allegation also states that a former County Supervisor received the benefit of the "half fee" for his commercial project in 2008.

All the individuals interviewed stated that only the BOS can establish, alter and/or waive fees. Further, none of the Supervisors who were interviewed were aware of the "half fee," although the Chief Building Official stated that the Supervisors had asked his department to set up the "half fee" waiver on behalf of personally-owned residential construction projects.

The Grand Jury requested a special report of construction projects which were charged the "half fee." A review of this report indicated that the "half fee" was charged to residential construction projects, where the owner was performing the work himself, from 2005 through 2008. However, in October 2006, the "half fee" was extended to a commercial home developer, saving the developer \$1143.66 and a loss to the Building Department of the same amount. It was also noted that in May 2008 another commercial construction project also received the "half fee." Further, it was learned that this commercial project was and is owned by former Yuba County Supervisor. The "half fee" amounted to a savings of approximately \$18,568.87 for the former Supervisor, and a loss of that amount to the Building Department.

It was also found that a similar commercial construction project to that of the former Supervisor, also in May 2008, did not receive the half fee.

In reviewing the BOS minutes from 2004 to 2009, there is no ordinance or resolution adopting the building permit "half fee," nor is there a request for waiver of permit fees on behalf of the previously mentioned developer and the former Supervisor.

Thus, the Grand Jury concludes that the Chief Building Official unilaterally changed the permit fee for a specific group of residential construction projects without authorization from the BOS. Further, the CBO provided this unauthorized "half fee" to a commercial home developer and to a former County Supervisor for their commercial construction projects.

FINDINGS

- F1. Pursuant to Yuba County Policy and Procedures Manual, the Board of Supervisors is the only County entity that is authorized to establish, change and waive fees for County-provided services.
- F2. "Half fee" waivers were given to residential construction projects, where the work was performed by the owners themselves, between 2005 and 2008, without authority from the Board of Supervisors.
- F3. "Half fee" waivers were given to a commercial home developer group in October 2006.
- F4. "Half fee" waivers were given to a commercial construction project in May 2008, which was and is owned by a former Yuba County Supervisor.
- F5. A similar commercial construction project to that of the former Supervisor did not receive the "half fee" waiver in May 2008, but rather paid full price.
- F6. The Chief Building Official did not and does not have the authority to establish, change and waive permit fees.
- F7. The Chief Building Official appears to have exhibited favoritism by providing the "half fee" waiver to residential construction projects, where the work was performed by the owners themselves.
- F8. The Chief Building Official appears to have exhibited favoritism by granting the "half fee" waiver to one commercial home developer group.
- F9. The Chief Building Official appears to have exhibited favoritism by granting the "half fee" waiver to a former Supervisor for his commercial construction project, while not granting the "half fee" waiver to a similar commercial construction project taking place during the same timeframe.
- F10. The Chief Building Official stated he was instructed by the Board of Supervisors to provide the "half fee" waiver, but the Supervisors who were interviewed had no knowledge of such a waiver.

RECOMMENDATIONS

- R1. Increased oversight should be implemented to ensure that only fees authorized by the Board of Supervisors are charged.
- R2. The Chief Building Official should be held accountable for failing to follow the County's Administrative Policy & Procedures Manual, Policy B-2, regarding the establishment of fees.
- R3. The Chief Building Official should be held accountable for a perceived show of favoritism when providing the "half fee" to residential construction projects where the work is performed by the owners themselves, as well as to the two commercial construction projects.
- R4. The Chief Building Official should be held accountable for the loss of revenue to the Building Department.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following individuals:

- Chief Building Official F1-F10
- Director, Community Development Services Agency F1-F9, R1-R4
- County Administrative Officer F1-F9, R1-R4

From the following governing bodies:

- Board of Supervisors F1-F10, R1-R4

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

This report of the "Unauthorized Changes in Building Permit Fees" is issued by the 2011-2012 Grand Jury with the exception of one member of this Grand Jury. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations, and the making and acceptance of the report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.