

MANATEE COUNTY CLERK OF THE CIRCUIT COURT
INTERNAL AUDIT DEPARTMENT

PUBLIC SAFETY DEPARTMENT
CODE ENFORCEMENT DIVISION AUDIT

A U D I T R E P O R T

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A U D I T R E P O R T

The Internal Audit Department conducted a financial, compliance, and operational audit of the Code Enforcement Division for the audit period December 1, 2003 through November 30, 2004. The audit was performed in accordance with *Generally Accepted Governmental Auditing Standards* issued by the Comptroller General of the United States; and the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

BACKGROUND:

The Code Enforcement Division of the Public Safety Department is responsible for the enforcement of the Manatee County Land Development Code, County ordinances for industrial noise, security gates, firework roadside stands, and nonconsensual towing, and the Lot Mowing Program. The Division responds to complaints of potential violations, such as junk vehicles, outdoor storage, work without permits, overgrown lots, and prohibited signs, within the unincorporated areas of Manatee County. In addition, the Division supports the Special Magistrate and Code Enforcement Board, which decide alleged violations of the Land Development Code, issue orders to bring a violation into compliance, and impose fines and penalties for noncompliance.

PURPOSE/OBJECTIVES:

The main audit purpose/objectives included, but were not limited to, the following:

- Determining the adequacy of the internal controls of the Code Enforcement Division.
- Determining whether the Division provides adequate response in meeting the needs of the general public.
- Determining the overall efficiency and effectiveness over operations of the Code Enforcement Division.

SCOPE:

The scope of the audit included reviewing the overall adequacy of the Division's internal controls and the operational efficiency and effectiveness of the Code Enforcement Division by examining and testing financial and operational records of the Division, the Division's compliance to the state's and county's laws, and of the responsiveness in meeting the needs of the citizens.

METHODOLOGY:

Internal control evaluations were accomplished by reviewing key operations of this specified area through discussions with management and staff, observations, and analytical and substantive testing of individual internal controls. Risk analysis was used to establish priorities of audit objectives.

IRREGULARITIES, ABUSE, OR ILLEGAL ACTS:

No indications of irregularities, abuse, or illegal acts were discovered during the Code Enforcement Division Audit for the period ending November 30, 2004.

TEST OF COMPLIANCE:

Internal Audit tested compliance with certain laws and regulations, obtained an understanding of internal controls and assessed control risk. Tests performed were limited to the specific areas included in the Purpose/Objective section of this report and appeared to provide sufficient evidence to support an opinion on compliance and internal controls for the areas tested. Except as noted in our audit report, tested items were in compliance with regulations and other policies established by the Code Enforcement Division.

STATEMENT ON INTERNAL CONTROL STRUCTURE:

In planning and performing the operational audit of the Code Enforcement Division for the year ended November 30, 2004, the internal control structure was considered in order to determine the auditing procedures for the purpose of this report. As a result, we noted in the audit report matters involving the internal control structure and its operations that are considered reportable conditions under standards established by the U.S. General Accounting Office, *Government Auditing Standards*. Reportable conditions involve matters relating to deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the organization's ability to record, process, summarize and report on data consistent with management's intentions.

STATEMENT ON INTERNAL CONTROL STRUCTURE: Continued

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions, as defined above. In addition, because of the inherent limitations in any internal control structure, deficiencies in the design or operation of the internal control structure may exist and not be detected.

MANAGEMENT TEAM AND MANAGEMENT ACTION PLAN:

A Management Action Plan will be given for each Area for Improvement. Management Action Plans are corrective actions with implementation dates developed in cooperation with the Department's management team and the Internal Audit Department. The management team included the Director of Public Safety and the Code Enforcement Division Chief.

MANAGEMENT SUMMARY:

The Code Enforcement Division is staffed with trained and dedicated individuals whose priority it is to provide quality service in a timely manner. Currently most of the services provided by the Code Enforcement Division are generated through complaints. The Division is in the process of analyzing whether a more proactive approach will better meet the needs of Manatee County.

The audit identified the following areas where improvements can be made:

- ◆ Fines imposed by the Code Enforcement Board (CEB) and Special Magistrate (SM) are initiated by the Code Enforcement Division without obtaining a second order, in apparent violation of Florida State Statute. The Management Team through the Management Action Plan will obtain an opinion from the County Attorney's Office to either comply with the statute or provide written guidance to the Division to continue to allow the present procedure to be used.

(See Area for Improvement #1 on Page 6.)

- ◆ The Code Enforcement Division is in the process of enhancing their computer system to allow for the calculation of fines and fees. Currently, the Clerk's Board Records Section is calculating accumulated fines upon the Division's request. The Management Team through the Management Action Plan will continue to update the Division's computer system that will allow for the calculation of fines and eliminating the necessity for assistance from the Clerk's Board Records Section.

(See Area for Improvement #2 on page 6.)

MANAGEMENT SUMMARY: Continued

- ◆ The Code Enforcement Division is using towing companies to remove junk vehicles, without written agreements that detail the County's liability. Terms of the verbal agreements conflict with the requirements of the Land Development Code. Management has submitted a Request for Legal Services from the County Attorney's Office. The Management Team through the Management Action Plan will coordinate with the County Attorney's Office the need for developing formal written agreements to protect the County from potential liability and ensure compliance with the Land Development Code requirements. **(See Area for Improvement #3 on page 7.)**

- ◆ The Code Enforcement Division may realize improvements by evaluating the Division's priorities, developing performance measures, computerizing manual tasks, enhancing follow-up procedures, and updating the policies and procedures manual. The Management Team through the Management Action Plan will continue to pursue these improvements. **(See Area for Improvement #4 on page 7.)**

We would like to thank the Code Enforcement Division's management and staff for the cooperation and courtesy afforded to our auditors throughout the audit. We appreciate the efforts and timeliness in addressing the issues raised during the audit and aggressively seeking solutions to these matters. We look forward to the Code Enforcement's continued effort on monitoring controls and maintaining accountability over all of their operations.

AUDIT REPORT AUTHORIZATION:

This audit report has been reviewed and authorized by:

Richard J. Orienti, CIA, CFE
Director of Internal Audit

R. B. "Chips" Shore
Clerk of the Circuit Court & Comptroller

AREA FOR IMPROVEMENT #1.....

Florida Statutes Chapter 125.69, Penalties; enforcement by code inspectors, provides the authority to fine violators of county ordinances up to \$2,000 a day. Fines imposed by the Code Enforcement Board (CEB) and Special Magistrate (SM), as they deem appropriate for the ordinance violation, are being initiated by the Code Enforcement Division through an "Affidavit of Noncompliance," once the time for compliance has expired. Florida State Statute Chapter 162, Section 162.09, clarified by the Attorney General Opinion 97-26, requires that the Division obtain a second order from the CEB or SM prior to enforcing and recording the fine. The "Affidavit of Noncompliance" does not appear to substitute the requirement of obtaining a second order.

Management Action Plan:

The Management Action Team through the management action plan will obtain a written opinion from the County Attorney's Office to determine whether the use of the "Affidavit of Noncompliance" can be substituted for obtaining a second order. Management anticipates obtaining an opinion from the County Attorney's Office by December 31, 2005.

AREA FOR IMPROVEMENT #2.....

The Clerk's Board Records Section records the CEB and SM approved liens on the property of violators. Once recorded, the violations require the fine to accumulate on a daily basis until the property comes into compliance. The Clerk's Board Records Section manually calculates these fines whenever Code Enforcement requests the total amount due. While the Code Enforcement Division relied upon this information in the past, the Division's computer program now has the capability to accurately calculate the fines independently of the Clerk's Board Records Section.

Management Action Plan:

The Management Team through the management action plan supports the Code Enforcement Division in the tracking and accumulation of fine amounts. The Division has begun the conversion of older file records to allow for the calculation of these fines. We support the completion of this computer conversion to eliminate the need for assistance from the Clerk's Board Records Section. Management anticipates updates to the program will be completed by November 30, 2006.

AREA FOR IMPROVEMENT #3.....

The Land Development Code allows the Code Enforcement Division to use towing companies to remove junk vehicles. The Code Enforcement Division has made verbal agreements with the towing companies that allow for towing the vehicles at no cost, in return for keeping the unclaimed vehicles. These verbal agreements do not address the County's liability relating to these towing agreements. The terms of the verbal agreements are inconsistent with the Land Development Code. Management has submitted a Request for Legal Services on this issue and anticipates meeting with the County Attorney to obtain an opinion. The use of formal written agreements addressing each party's legal responsibility may protect the County from future liability and ensure compliance with the Land Development Code.

Management Action Plan:

The Management Team through the management action plan will coordinate with the County Attorney's Office the need for developing formal written agreements to protect the County from potential liability and ensure compliance with the Land Development Code requirements by December 31, 2005.

AREA FOR IMPROVEMENT #4.....

Based on our review of efficiency and effectiveness, the Code Enforcement Division may realize improvements by evaluating the Division's priorities through the development of performance measures of staff based on daily activities and identifying the sources of these activities. In addition, improvements can be made through the computerization of manual tasks and enhancement of follow-up procedures. Assuring that staff has written instructions and guidelines will further aid and promote operational efficiency and effectiveness of the Division.

Management Action Plan:

The Management Team through the management action plan will continue to pursue the computerization of manual tasks, enhance follow-up procedures, and update their policies and procedures. In addition, the Division will implement an evaluation of priorities through the development of performance standards. Management anticipates completion by November 30, 2006.



Manatee County

Clerk of the Circuit Court and Comptroller

R.B. "Chips" Shore

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MEMORANDUM

TO: Karen Windon, Public Safety Department Director

FROM: R. B. "Chips" Shore, Clerk of the Circuit Court, County Comptroller and Auditor

DATE: October 3, 2005

RE: Code Enforcement Division Audit

Enclosed is the Internal Audit Report for the Code Enforcement Division Audit as of November 30, 2004. Our Internal Audit Department will perform a follow-up audit on the areas of improvement included in this report, together with those areas identified in the final audit report, to verify implementation of Management's Action Plan.

I wish to thank you and your staff for their courteous and professional cooperation with our Internal Auditors throughout the audit. If you have any further questions regarding this report, please feel free to contact Richard Orienti at extension 4170.

RBS/RJO

Enclosures

cc: Manatee County Board of County Commissioners
Ernie Padgett, County Administrator
Joe Fenton, Chief, Code Enforcement Division



Manatee County

Clerk of the Circuit Court and Comptroller

R.B. "Chips" Shore

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MEMORANDUM

TO: City Desk Editor, Bradenton Herald
City Desk Editor, Manatee AM
Islander Bystander
Sid Thomas, Editor
WHNZ, Newsroom
Longboat Key Observer (Attn: Shay Sullivan)

FROM: R. B. "Chips" Shore, Clerk of the Circuit Court, County Comptroller and Auditor

DATE: October 3, 2005

RE: Announcement of the Release of an Internal Audit Report

My office is releasing today the Internal Audit Report for the Public Safety Department's Code Enforcement Division Audit, which was performed as of November 30, 2004. Copies may be obtained by contacting the Internal Audit Department at (941) 741-4017. Copies of the report can either be mailed or picked up at the County Courthouse room 158.