



Negotiation of Code Enforcement Fines

**Community & Economic Development
and City Attorney's Office**

**Inclusiveness, Community Engagement and
Governmental Processes Committee**

June 14, 2021

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BACKGROUND

1. Administrative Code Enforcement program in RMC 1.17 authorizes issuance of fines of \$100-\$100,000 for violations of municipal code.
2. Fines typically reach the highest level after prolonged period of non-compliance and a series of notices/citations/hearings/due process.
3. Responsible parties and prospective buyers face challenges paying high fine amounts.
4. The City developed a tool to negotiate fine amounts during the 2007/2008 foreclosure crisis when many vacant bank owned properties accumulated high fines.
5. Rehabilitation Agreements and Owner Occupancy Covenants were used in exchange for fine reductions.



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BACKGROUND

6. Rehabilitation Agreements were a legal contract wherein the responsible party agreed to resolve the code violations by a prescribed date in exchange for a fine reduction.
7. Owner Occupancy Covenants require the property owner to occupy the subject property as well as make repairs for an agreed upon amount of time in exchange for a fine reduction.
8. Staff was authorized to negotiate up to 50% of the original fine amount with a Rehabilitation Agreement and even greater percentages with an Owner Occupancy Covenant based on the amount of time the property remained owner occupied.
9. Reductions greater than 50% required City Council approval.
10. The agreements have been an informal practice of the City Attorney's Office and approximately 242 agreements have been executed since 2008.



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DISCUSSION

Two options for consideration:

1. Cease utilizing Rehabilitation Agreements and negotiating Code Enforcement fines.

- a) Staff will seek full payment of all imposed fines with no means to negotiate or reduce the amount due.
- b) Failure to pay will result in collections, an unsecured property lien or cloud on title, reporting to the State Franchise Tax Board and other traditional debt collection methods.



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DISCUSSION

2. Continue Rehabilitation Agreements and formalize a policy.

- a) Each request to negotiate would need to meet certain criteria:
- i. No previous rehabilitation agreements with the City.
 - ii. Demonstrable financial hardship in paying full fine amount.
 - iii. Gross annual income does not exceed 80% of area's median income.
 - iv. Disability prevented ability to comply and/or pay fine in full.
 - v. Deployed on active military duty during time code violation took place.
 - vi. No more than 3 code violations in prior calendar year.
 - vii. Agreement would preserve community interests in maintaining housing stock and preventing blight.



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DISCUSSION

- viii. Property is residential in a low to moderate income area.
 - ix. Property has been inherited by a family member who seeks to negotiate within 12 months of transfer.
 - x. Actual City administrative costs do not exceed amount being negotiated.
 - xi. Rehabilitation Agreement is in best interest of City as violations in question create health/safety/welfare issues.
- b) Recommended negotiation limits:
- i. Community & Economic Development Director and designee(s) – up to \$25,000.
 - ii. City Manager – up to \$50,000.
 - iii. City Council – Greater than \$50,000.



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DISCUSSION

c) Owner Occupancy Covenants

- i. Cease utilizing.
- ii. Render properties unmarketable.
- iii. No data exists that supports the premise that renters/tenants do not properly maintain a property.
- iv. City's goals can be achieved with the use of Rehabilitation Agreements alone.

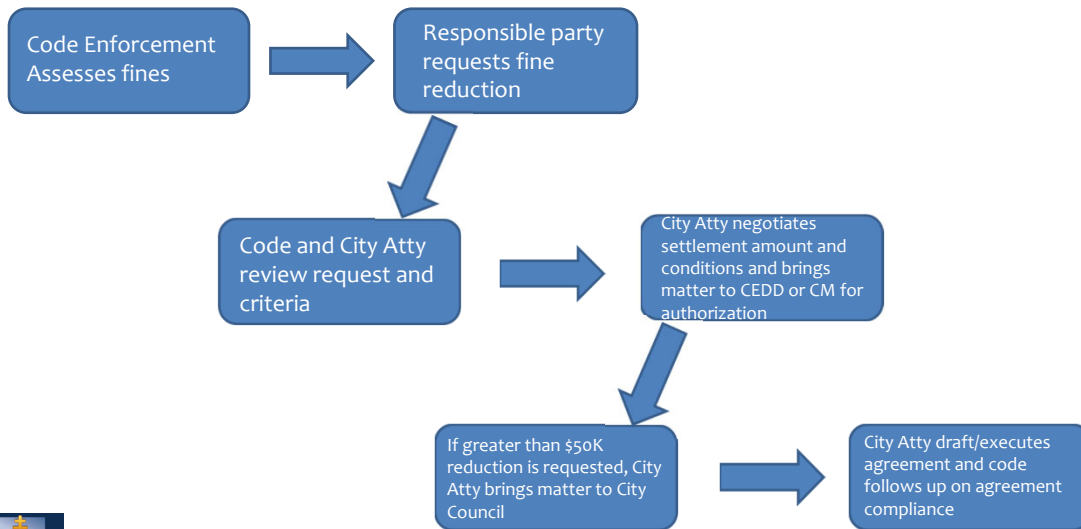


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SUMMARY



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RECOMMENDATIONS

That the Inclusiveness, Community Engagement and Governmental Processes Committee:

1. Direct staff to either:

- 1) Discontinue negotiating code enforcement fines and executing rehabilitation agreements/owner occupancy covenants; or
- 2) Develop a formal policy authorizing the reduction of code enforcement fines as recommended by the Committee and return to City Council for action.



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