



Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Division of Internal Audit

INTERNAL AUDIT REPORT

DATE: February 27, 2007

TO: Jim Newberry, Mayor

CC: Charlie Boland, Chief Administrative Officer
Tim Bennett, Commissioner of Public Safety
David Jarvis, Director of Code Enforcement
Chief Robert Hendricks, Division of Fire & Emergency Services
Urban County Council members
Internal Audit Board Members

FROM: Bruce Sahli, Director of Internal Audit

RE: Code Enforcement Inspection Process Audit

Background

The Division of Code Enforcement is responsible for ensuring compliance with minimum maintenance and repairs standards for all existing structures and properties throughout Lexington and Fayette County. Division staff provides inspections of existing residential and commercial structures to ensure they are maintained to the minimum standards set forth in the International Property Maintenance Code. The Division also addresses nuisances such as junk cars, garbage on lots, and weeds as directed by the LFUCG Code of Ordinances. In those instances where property owners fail to correct violations, Code Enforcement will abate the nuisance. The Division of Code Enforcement also coordinates with the Division of Fire & Emergency Services to inspect buildings when a possible code violation is brought to their attention during a fire safety inspection, and will inform the Division of Fire & Emergency Services of possible fire hazards when noted during a Code Enforcement inspection. The Fire Prevention Bureau of the Division of Fire & Emergency Services is responsible for fire prevention inspections.

Scope and Objectives

The general control objectives for the audit were to determine that:

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- Policies and procedures were in place to provide reasonable assurance that inspections were conducted in a timely manner
- Inspections were properly documented
- Field personnel were properly supervised
- Issues and open items arising as the result of an inspection were resolved on a timely basis

The primary scope of this audit was the Division of Code Enforcement inspection process. To the extent that this inspection process coordinates with the Division of Fire & Emergency Services fire prevention inspection process, a review of that Division's inspection procedures also occurred.

Statement of Auditing Standards

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the organization, program, activity or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions.

Audit Opinion

In our opinion, the controls and procedures provided reasonable assurance that the general control objectives were being met. Opportunities to enhance controls are included in the Summary of Audit Findings.

SUMMARY OF AUDIT FINDINGS

Property Ownership & Disclosure Forms not Completed

CAO Policy 23 requires the Property Ownership & Disclosure Form (a disclosure of real property and business interest form) be completed on an annual basis by all employees within the Division of Code Enforcement and all employees within the Fire Prevention Bureau. CAO Policy 23 requires that these reports be submitted annually to the Division Directors, and CAO Policy 23R states that an individual within a Division should be designated to ensure that all employees complete the forms in the appropriate manner.

We sought to establish proof that Division of Code Enforcement and Fire Prevention Bureau employees have complied with this annual requirement over the past three years. Our search for these documents included Division of Code Enforcement and Fire Prevention Bureau files as well as Human Resources files. We were unable to locate any such forms for the past three years for 19 of the 36 employees included in the total population (seven Code Enforcement and all twelve Fire Prevention Bureau employees). Our examination of PVA Records also noted that two of the

employees tested (one each from Code and Fire) had more than one property listed in their name in Fayette County, which may be a violation of CAO Policy 23's prohibition against the ownership of residential real property in which they do not reside. (This information will be passed on to Division management for further review). For the purposes of this audit, it should be noted that the existence of such properties is precisely the type of information the Property Ownership & Disclosure Forms would specifically identify for management review.

CAO Policy 23 establishes important criteria for reporting property and business ownership in order to ensure that conflicts of interest do not arise in the government's inspection process. It is therefore recommended that the Property Ownership & Disclosure Form be completed annually by all Division of Code Enforcement and Fire Prevention Bureau employees as required. As required by CAO Policy 23R, an individual within both the Division of Code Enforcement and the Fire Prevention Bureau should be designated to ensure that all employees complete the forms in the appropriate manner.

Division of Code Enforcement Management Response: The CAO Policy requirement for property disclosure forms were always distributed and maintained by the CAO's office. The Division was not aware that we were responsible for the distribution and maintenance of these documents and it would seem like a conflict for the Division to maintain and review these records. But if it is the policy for Code Enforcement to designate an individual to distribute and maintain these records, we would be happy to do so. But it is my opinion this policy should be implemented and monitored by the CAO'S office.

Division of Fire & Emergency Services Management Response: CAO Form 23 R, Disclosure of Real Property and Business Interests, were completed on all members of the Fire Prevention Bureau and sent to Vicki in the CAOs office in 2001, we have only sent updates when replacing members within the Fire Prevention Bureau. We will complete form 23 R on all current employees of the Fire Prevention Bureau that have inspection responsibilities as well as the Fire Chief and forward them to the CAOs office and will maintain a copy in the Fire Marshal's Office. The form will be updated annually.

Active Case Follow up Exceptions

In order to determine that proper inspection follow up procedures were in place, we judgmentally selected Code Enforcement's thirty oldest active cases for review. During this testing, we noted that six cases assigned to Inspector 21 were several years old but the related case documentation indicated they were still largely unresolved, in contrast to the other inspectors' cases. We therefore expanded our testing to review the 21 currently active cases initiated by Inspector 21 from 1999-2004 in order to review the documentation for all open cases of significant age assigned to this inspector. Of these 21 cases examined, we noted that six had no penalties charged, three indicated very slow work or work stoppage, three had no indication of follow up in the files, and two indicated penalties now being charged only after significant time had elapsed.

We recommend that Division management review these cases with Inspector 21 to determine the reasons for their lack of resolution. We also recommend Division management establish a more

formal policy for documenting extenuating circumstances which may warrant the postponement of penalties, foreclosures, etc. This policy should require documented supervisor and/or Director approvals to ensure that such delays are brought to management's attention and properly justified.

Division of Code Enforcement Management Response: Prior to the hiring of the new Director, the previous Director and the Supervisor for Inspector 21 did not monitor time frames or actions by Inspector 21. After the hiring of the new Director (David Jarvis) in 2004 an SOP was issued by the Director that stipulates time frames for penalties and guidelines for extenuating circumstances. Under Code Enforcement's current management all cases for Inspectors are monitored by the Supervisors to ensure appropriate action is taken. Of the cases that were mentioned 5 were involved in legal actions through the court process and Code Enforcement had no control over the courts time frames. (AUDITOR'S NOTE: These five cases were identified as being litigated and were therefore not included as reportable findings). But after reviewing the audit we discovered there was a lack of follow up by Inspector 21 and we have reinvestigated those cases and have taken appropriate actions.

The Division of Code Enforcement has a policy that outlines time frames for penalties; see SOP policy #04-001, (attached) dated 10/12/04 and has since further revised the policy. A copy was given to the Internal Audit Division.

RISK OBSERVATIONS

Standards for the professional practice of internal audit stipulate that it is the Division of Internal Audit's responsibility to inform management of areas where risk to the organization or those it serves exist. The following observations identify risks associated with the Division of Fire & Emergency Services fire inspection process that are not considered audit findings, but that are considered to be of sufficient importance to deserve mention in this report to ensure senior management's awareness.

Observation of Risk Associated with Multifamily and Commercial Structure Fire Inspections

During the audit we reviewed all incidents with injuries responded to by the Division of Fire & Emergency Services for the period January 1, 2006 through December 22, 2006. There were 32 incidents involving injuries, of which eleven were multifamily (i.e. three or more units) or commercial structures. Nine of these eleven multifamily or commercial structures had not had fire inspections in the past year, including two that had not been inspected since 1998 and a third not inspected since 2002. According to file documents, detectors were not functional at two of these nine locations, which included one of the structures last inspected in 1998.

The Division of Internal Audit is not aware of any statute, ordinance, regulation, or LFUCG Policy or Procedure requiring annual inspections of multifamily or commercial structures. Division of Fire & Emergency Services management stated that the best practice is to inspect such facilities on an annual basis. However, they noted that currently there are only four fire inspectors and one coordinator for existing commercial properties and three for new construction within Fayette County.

This issue is included in the report to ensure senior management awareness in its ongoing risk evaluation process. Senior management may wish to conduct a formal evaluation of staffing levels to determine if additional fire inspectors are warranted.

Division of Fire & Emergency Services Management Response: The Fire Prevention Bureau is staffed with four inspectors and one coordinator to inspect *existing* multifamily and commercial structures within Fayette County. It is impossible given this level of staffing to inspect every multifamily and commercial structure so as a bureau we prioritize our inspections. We attempt to inspect our schools and public assemblies annually. We attempt to inspect larger mercantile properties seasonally (Christmas) and residential dorms prior to the start of the school year. The remainder of our time is spent on Certificate of Occupancy Inspections, complaints (citizen and fire company), and final inspections on new and remodeled structures. To supplement this lack of staff we utilize our fire companies in the process by performing *company surveys*. While the company survey is not a true inspection, it is done by fire crews that can pick up on the obvious fire code violations and report them to our inspectors within the Fire Prevention Bureau. These companies are given classes periodically on reporting and areas of concern while completing the company survey. The Fire Prevention Bureau, in the past two years, has placed in the budget the need for additional staff and will continue to do so to bring staffing levels up in an attempt to have inspectors in all commercial and multifamily buildings every three years. In the 2008 budget we have requested four new inspector positions. The Risk Observation listed 32 incidents involving injuries for the period January 1, 2006 through December 22, 2006 and cited nine that had not been inspected in the past year and two since 1998 and one since 2002. Even though there may be some correlation between these injuries and inspections, a number of fires were due to occupants smoking in bed, leaving candles unattended, and leaving food on the stove and falling asleep. Occupant neglect can be a major factor in fire injuries and property loss. The Fire Prevention Bureau typically does not enter an apartment during inspections unless there is a complaint within that unit, normally this falls upon the building owner or management company to assure maintenance on the safety devices is done, again we focus on the common areas of the building to assure fire and life safety devices are in proper working order so that all building occupants have the necessary warnings in the event of fire. A strong Fire Prevention Program along with fire safety education is still the best defense against fire loss and injury prevention.

(AUDITOR'S NOTE: As an indicator of the risk to be possibly mitigated, one fire with injuries noted in our examination was a multi-family structure with 127 units. This structure had not received a fire inspection since 1998. A post-fire inspection found the detectors were not working).

Observation of Risk Associated with School Fire Inspections

During the audit, we noted that three schools (E.J. Hayes, Stonewall Elementary, and Indiana Wesleyan University) had not received their annual fire inspections as of late December 2006.

The Division of Internal Audit is not aware of any statute, ordinance, regulation, or LFUCG Policy or Procedure requiring annual school fire inspections. However, it is the goal of the Division of Fire & Emergency Services to conduct annual fire safety inspections at all schools located within Fayette County, and these inspections are also a non-statutory priority within the State Fire Marshall's Office

in the interest of public safety. As all completed school inspections are entered into this Division's AS-400 computer system, management may wish to determine if an exception report can be created to identify uninspected schools on a timely basis. This report could then be reviewed by Division management at regular intervals until all school fire inspections are completed.

Division of Fire & Emergency Services Management Response: During the audit period it was noted the Fire Prevention Bureau failed to inspect three schools. Of the three one is listed as a business (Indiana Wesleyan University) The other two, E. J. Hayes and Stonewall Elementary were in fact overlooked this school year and have since been inspected in keeping with our policy of inspecting our schools annually. They were however inspected last school year. We plan to work with our computer services division so we can query reports based on use type so we assure all group E occupancies are considered each year for inspection.