



CITY OF OAKLAND

AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: William A. Gilchrist,
Director, Planning &
Building Department

SUBJECT: FY 2023-24 Quarter 1 Update on
Code Enforcement Activities

DATE: December 11, 2023

City Administrator Approval


Jestin Johnson (Dec 27, 2023 12:28 PST)

Date: Dec 27, 2023

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report Regarding The Fiscal Year 2023-24 Quarter 1 Update On The Planning and Building Department's Code Enforcement Activities.

EXECUTIVE SUMMARY

This Informational Report provides current information on the code enforcement activities of the Planning and Building Department (PBD) from July 1, 2023 through September 30, 2023 of Fiscal Year (FY) 2023-24. The PBD's Code Enforcement Division enforces compliance with building, housing, and zoning codes and regulations. It is important to note that although many other departments within the City of Oakland (City) enforce property-related regulations, such as Economic Workforce and Development Department (EWDD), Oakland Public Works Department (OPW), Fire Department (OFD), and Police Department (OPD), the data and work activities described in this report only pertain to PBD's enforcement activities under the Oakland Municipal Code (OMC).

BACKGROUND / LEGISLATIVE HISTORY

Purpose and Origin of Quarterly Code Enforcement Report

The City's FY 2015-17 Policy Budget contains a directive to provide an informational report on a quarterly basis to the City Council concerning the code enforcement activities of PBD. The purpose of the report is to update the City Council and the public on the range of code enforcement work being performed, the statistics related to those categories of enforcement, and key initiatives underway to improve the effectiveness of Code Enforcement Services. The Code Enforcement division of PBD pursues the enhancement of livability in the community through the facilitation of neighborhood revitalization projects, focus on the reduction of blighted

CED Committee
January 9, 2024

properties, and ensuring the health and safety of occupants in and around structures. Recently, Code Enforcement has been a partner in the Neighborhood Enhanced Services Team (NEST) work in East, West, and Central Oakland to improve the quality of life in Oakland's High Priority Equity communities. These interdisciplinary teams address multiple issues to create positive change. Code Enforcement's current role is to focus on several problem properties within identified service areas. Additionally, Code Enforcement works with the Abandoned Auto Task Force to address illegal businesses that may be tied to vehicle thefts and vehicle stripping in Oakland; specifically, determining whether those business operations constitute a public nuisance and working to clean up Oakland's streets through addressing a cause of the epidemic of stripped vehicles found within city limits. PBD has received an average of 1,563 complaints each Quarter over the last 4 fiscal years. The lowest was in in FY 2019-20 Quarter 2, where 1,305 complaints were received and the highest was in FY 2020-21 Quarter 3, where 1,942 complaints were received.

A primary goal of the City's Code Enforcement program is to resolve property maintenance, building maintenance and zoning code violations in a timely, effective, and efficient manner. The requirements and process for each are discussed in this report. The length of time to achieve compliance varies based upon several factors, such as the complexity or extent of the violation, cooperation of the property owner, or the extent to which the property owner pursues appeals of code enforcement determinations. The code enforcement program is primarily complaint-driven, and the number of complaints received vary over any given period. See Slides 3 & 4 of **Attachment A** for the volume of quarterly complaints received: Slide 3 is a graph depicting the categorized complaints for each quarter from Quarter 1 of FY 2020-21 through Quarter 1 of FY 2023-24; and Slide 4 is depicting the last four quarters.

Complaint Submittal and Processing

Complaints are received in various ways (Oak311, via the Accela Online Permit Center, phone, email, etc.) and are referred to Code Enforcement administrative staff, who examine the reported complaint and initiate its routing through the enforcement process. Depending on the nature of the complaint, the property owner may be sent a Courtesy Notice or staff will conduct a site visit, such as a first inspection, which may lead to the issuance of a Notice of Violation (NOV). See Slides 5 & 6 of **Attachment A** for the quarterly volume of First Inspections, Reinspections, and Monitoring Inspections conducted cumulatively and for the first quarter of FY 2023-24.

A Courtesy Notice is sent for initial reports of minor violations of blight and nuisance complaints, such as noise abatement, trash and debris left in the public view, and other non-hazardous conditions. No inspection of the property is conducted. The property owner has twenty-one days to respond to the notice and may certify that the violations are unfounded or have been corrected by returning the *Property Owner Certification* form with corroborating photographs.

The first inspection is the initial visit to the site once a complaint has been received. The purpose of this inspection is to verify whether the conditions reported through the complaint violate the OMC. Whenever a violation is verified through a site visit, an NOV is issued that includes a list of the violations and of the corrections that must be made. NOVs are issued for a variety of reasons, such as: work performed without permits, deteriorated and unsecured empty

buildings, graffiti, hazardous and unsafe conditions on private property, and for repeated violations that have not been corrected.

If the case does not constitute an imminent hazard, then the City allows corrective action to be taken without the assessment of fees for a 30-day period (plus five extra days for mailing) from the date of the NOV. For persistent non-compliance, the City initiates and continues to apply fines until abatement of the violation is achieved. The City will record the NOV with the County to alert potential interested parties to the existing violations. Properties that contain substandard conditions as defined by OMC 15.08.340 will escalate towards an Order to Abate or to a Declaration of Substandard and Public Nuisance.

These actions carry substantial assessments and consequences, such as demolition of a structure or when there is unpermitted construction of a residential dwelling unit that may result in temporary or permanent relocation of occupants, depending on the extent of the correction and its impact on habitability during construction. Receivers of an NOV are given the right to appeal the violations. Such appeals must be filed within 21 days (plus five extra for mailing) from the issuance of the NOV. See Slides 7 to 10 of **Attachment A** for the average case management duration, number of enforcement actions for compliance and abatement, and total open and abated/closed cases.

ANALYSIS AND POLICY ALTERNATIVES

The PBD Code Enforcement Program directly relates to the Citywide priorities of **1) holistic community safety** and **2) housing, economic, and cultural security** by providing the means and methods to verify and correct violations of the OMC as they relate to minimum maintenance standards for private property under the categories of property blight and graffiti, building maintenance, and zoning, as discussed below.

Code Enforcement Categories

Property Blight and Graffiti: It is unlawful for any person or corporation whether as owner or occupant in possession of the property to maintain any property in a blighted condition per OMC Chapter 8.24. A blighted property (i.e., residential, commercial, or industrial properties) is one that exhibits a lack of maintenance, livability, and appearance that does not promote the health, safety, and general welfare of the community. Blight includes: abandoned or unsecured buildings and structures; abandoned construction projects; dilapidated, deteriorated buildings; broken or missing windows, doors, fencing, signs, retaining walls; defaced buildings; overgrown vegetation; trash and debris; unclean, unsanitary property; garbage bins left in public view; open storage; property that creates a dangerous condition (i.e., erosion controls); unstable soil conditions; parking and storage of trailers, campers, recreational vehicles, boats, unregistered, inoperative vehicles, appliances, furniture, etc. Per OMC Chapters 8.24.050 and 8.10.110, complaints regarding blight and graffiti on residential, industrial, or commercial properties, as well as privately-owned vacant lots are inspected and issued an enforcement notice to abate. Note: that illegal dumping of items on the street and sidewalk is commonly reported to Code Enforcement Services of PBD, but it falls under the enforcement responsibility of the OPW and as such a referral is made to OPW. Graffiti on public property also falls under the enforcement responsibility of OPW.

Building Maintenance: It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building, structure, portion thereof, or real property or cause or allow the same to be done in violation of this Chapter 15.08 of the OMC. The provisions of the Code apply to real property and to all residential and non-residential buildings used, or designed or intended to be used, for human occupancy and habitation and all accessory buildings and structures on the same lot or parcel. Such occupancies in existing buildings may continue as provided in the Oakland Building Construction Code, except where the Building Official has issued an order to vacate after such structures are found to be substandard and public nuisance as defined in this Chapter, 15.08.030 of the OMC.

While enforcement of blight is commonly straight-forward, building maintenance issues may require extensive investigation and research, as well as coordination with other departments like OFD, EWD and Housing and Community Development (HCD) and guidance from the City Attorney to confirm the City's options under a range of enforcement scenarios. The City Attorney is an essential partner in the successful enforcement and resolution of our cases.

Zoning: It is unlawful to establish, substitute, expand, construct, alter, move, paint, maintain or otherwise change any structure, or create or change lot lines, except in conformity with the Oakland General Plan per Chapter 17 of the OMC (Section 17.010.3). Regulations related to compliance and use for residential, commercial, and industrial zone designations include unpermitted business in residential areas, excessive signage/advertising signage, fencing height, construction noise, persistent noise, and other unapproved activity. Enforcement includes the issuance of Courtesy Notices, NOV's and enforcement noticing described under Building Maintenance to gain compliance.

Abatement and Case Clearance Issues

During FY 2023-24 Quarter 1, Code Enforcement received 1,910 complaints. Slide 10 of **Attachment A** depicts the caseload in each category of complaint and shows open cases at the end of the previous quarter, new cases opened in Quarter 1, cases abated and closed in Quarter 1, as well as open cases at the end of Quarter 1. There is a tendency to think of Code Enforcement violations as a monolith, but each violation is different, and each requires different approaches and processes to abate. **Table 1** provides a small sample of the types of violations that come in as complaints.

Table 1, Types of complaints by category

| Building Maintenance (OMC 15.08) | Property Maintenance (Blight) (OMC 8.24) | (Minor) Zoning (OMC Title 17) |
|---|---|--------------------------------------|
| Unpermitted work | Trash | Unpermitted window |
| Lack of adequate heat | Debris | Roofing changes |
| Lack of adequate water | Overgrown vegetation | Fencing height |
| Landslides | Graffiti | Unpermitted expansions |

As further depicted in **Table 2**, open case volumes grew within the Building Maintenance and Property Maintenance categories by 6 percent and 10 percent, respectively, while case volume fell 8 percent in the Zoning category. Mitigating growth in open cases is an identified focus area.

Table 2, Growth of open cases by category

| Building Maintenance | Property Maintenance (Blight) | (Minor) Zoning |
|---|---|--|
| <p>Open Cases grew by 6 percent in Quarter 1 from the prior quarter, going from 3,170 to 3,265 open cases.</p> <p>In terms of abatement, 589 new cases were opened, while 494 cases were abated and closed.</p> | <p>Open Cases grew by 10 percent in Quarter 1 from the prior quarter, going from 3,314 open cases to 3,479 open cases.</p> <p>In terms of abatement, 1,048 cases were opened while 883 cases were abated and closed for blight cases.</p> | <p>Open Cases decreased by 8 percent in Quarter 1 going from 735 open cases to 802 open cases.</p> <p>In terms of abatement, 273 new cases were opened while 206 cases were abated and closed.</p> |

While some headway has been made in filling open positions, vacancies and low staffing levels significantly contribute to the number of open cases. There are 11 Inspectors with 19 total budgeted positions. A shortage of experienced building inspectors is a national problem and continues to have a disproportionate impact on the Code Enforcement Division’s ability to manage the workload. Since the last report, 3 contract Inspectors have been hired to assist with this workload and allow some of the Inspectors to focus on resolving complex past cases. To provide more context on staffing shortages, it was not long ago that PBD functioned with 6 Public Service Representatives (PSRs) and 6 Office Assistants (OAs). At present there are no PSRs and 1 Administrative Analyst. While we continue to staff up, there is a service gap that we are diligently working to close due to those vacant positions as noted under Staff Coordination, Training and Hiring section of this report.

Along with staffing shortages, there are continuous issues with property owners who fail to respond to notices in a timely manner with the paperwork and administrative effort involved with bringing those properties into compliance being a time-consuming process. Finally, the Cybersecurity Incident of February 8, 2023, had an extended impact on Code Enforcement processes and cases. The combination of staffing issues and longer compliance timeframes, often due to reliance on other agencies and entities, results in a slowly growing backlog of blight and building maintenance cases.

To address overall backlog of open cases, we are currently hiring more administrative support staff and intent on filling the vacant inspector positions with the current open continuous recruitment. All of these open cases, as shown on Slide 11 of **Attachment A**, received courtesy notices or field inspections so that owners were made aware of reported issues. Internal data indicates that many of these cases are open due to having been transferred from former Inspectors, who no longer work at the City to current Inspectors who are primarily focused on the constant addition of new cases and the administrative support staff and tasks that surrounds each case.

The more staff that are available to address the workload from current complaints, the more time experienced staff can be assigned to research and work towards resolving cases prior to Quarter 4 of FY 2022-23. For example, even one additional PSR, once trained, should be able to help process about 200 cases quarterly. With 2 PSRs to be hired, Code Enforcement could have the capacity to process 400 more cases per quarter than it is currently able. Recall that open cases grew by 327 from the end of Quarter 4 of FY 2022-23 to the end of Quarter 1 of FY 2023-24, with which this report is concerned. This estimate assumes that complaints will not dramatically increase in future quarters.

Code Enforcement staff were able to examine a sample of cases at the end of the previous quarter, Quarter 4 of FY 2022-23. Specifically, Code Enforcement researched final dispositions on 380 Courtesy Notices that were sent to property owners during the quarter, and 311 of those notices concerned Blight, 59 were for Zoning, and 10 were for Property Maintenance.

Based upon the analysis of those notices:

- 182 were still considered “open” cases.
- 96 were recorded as “abated” meaning Code Enforcement received photos and confirmation that violations were rectified.
- 75 were recorded as “closed” when the property owner certified violations did not or no longer exist.
- 25 were recorded as “no response” meaning Code Enforcement received no report from the property owner by the deadline to respond.
- 2 were considered “referred”, which means closed and transferred to an existing open case.
- 13 property owners who received courtesy notices had their cases escalated (with an inspection scheduled) due to Code Enforcement’s receipt of another, similar, complaint regarding the property.

Code Enforcement Fees

Slide 12 of **Attachment A** reflects the volume of violations with associated fees. When compliance is not obtained, fees and penalties increase to encourage the property owner to mitigate code violations and to cover the cost of additional inspections and administrative services provided.

The City recovers the administrative and logistical costs of bringing property owners into compliance via these fees, ensuring a safer and more resilient City in the process. Time spent conducting field inspections, sending letters and notices to property owners, issuing fines, and abating properties that will not otherwise come into compliance can be laborious. When fees are applied, Code Enforcement has already made attempts to communicate with the property owner and exhaust the administrative process. It is an unfortunate reality that some property owners would not make needed changes and/or repairs without the imposition of fees and penalties. On the other hand, to protect property owners, there are statutory limits to fees, they are assessed incrementally to gradually disincentivize inaction, and there are appeal processes in place to dispute fees and notices.

Code Enforcement Statistics

Attachment A includes volume of Complaints received by Category (Categories described above) and volume of Inspections performed, which includes the number of First Inspections/site visits performed, the current average Quarter 1 turnaround from complaint to NOV abated, and Fees Assessed for Quarter 1 of FY 2023-24 and for quarters 1-4 of FY 2022-23.

Code Enforcement Identified Trends:

Below are some comparable data between the first Quarter of FY 2023-24 and the former FY 2021-22.

Trends in Complaints

Blight: Quarters 1 and 4 (spring and summer) feature more than 1,000 blight complaints while fall and winter seasons seem to reduce complaints by about a third. Quarter 1 is consistent with this pattern of 1,048 blight complaints. Spring and Summer months provide more complaints on overgrown vegetation, for example.

Building Maintenance: fall, followed by summer (Quarter 2 then Quarter 1) of FY 2022-23 featured the fewest housing maintenance complaints; however, this summer (Quarter 1 of FY 2023-24) witnessed a substantial increase in complaints with roughly 30 more complaints than winter of FY 2022-23 or about 5 percent more complaints than that quarter.

Zoning: Quarter 3 winter had the lowest number of complaints in FY 2022-23 while Quarter 1 summer had the highest amount of complaints. Quarter 3 had roughly half the number of zoning complaints as Quarter 1. Complaints for Quarter 1 of FY 2023-24 were higher than all other quarters, except Quarter 1 of FY 2022-23. However, the number of complaints for Quarter 1 of FY 2023-24 was down 17 percent from the highs seen in Quarter 1 of FY 2022-23.

Trends in Interventions and Fees:

The number of First Inspections, shown in Slides 5 and 6 of **Attachment A** was higher across all categories (blighted property, building maintenance, and zoning) than in each quarter of FY 2022-23.

In terms of Reinspections and Monitoring Inspections on Slide 5, Quarter 1's numbers of these types of inspections are categorically higher than they have been in each quarterly report from FY 2022-23.

Total inspections by type, also on Slide 5, have been generally climbing since Quarter 2 of FY 2022-23. The most dramatic increase since that time has occurred in the Building Maintenance Category, in which total inspections nearly doubled from 1,285 inspections in Quarter 2 of last year to 2,482 in Quarter 1 of FY 2023-24.

In Slide 7 of **Attachment A**, case management duration from intake to first inspection was reduced by 2 days in Quarter 4 of FY 2022-23. Also, during that quarter, the time it took from conducting the first inspection to sending of the NOV was cut in half while it was consistent in all

other quarters. Finally, in Quarter 3 of FY 2022-23 the time period between the sending of a NOV and the abatement of the violation shrunk by nearly 4 days.

In looking at the assessment of Enforcement Fees on Slide 12 of **Attachment A**, Quarter 1 had the highest number of cases invoiced since Quarter 2 of FY 2022-23. The amounts assessed for bonds for Compliance Plans was also the highest of all quarters reviewed during Quarter 1. In terms of revenue generated to support Code Enforcement activities, the highest dollar amount was received in Quarter 2 of FY 2022-23.

Key Initiatives

The bullet points that follow represent a brief discussion of the key initiatives, including methods, partnerships, technical trainings, personnel changes, and newly implemented programs and standards that will impact the Code Enforcement Division's ability to reduce the numbers of open cases, addressed in Slide 11 of **Attachment A**.

These bullet points include programs that will increase Code Enforcement's caseload (in the short-term) and those that are expected to reduce the number of complaints in the future. For example, successful recruitment of new inspectors decreases collective caseloads, while enforcing new Building Maintenance Code standards around lead based paint are expected to increase caseloads. Nevertheless, with increased recruitment, tighter interdepartmental coordination, and a forthcoming analysis of the previously affected IT datasets to update the numbers from Slide 10 of **Attachment A**; we remain confident that future quarterly reports will provide more precise and lower numbers of open cases. Having more Inspectors is critical. In this regard, the Planning and Building Department has been prioritized for additional hiring support from the Human Resources Department through a continuous recruitment of candidates to fill Inspector positions. The goal is to reduce the number of vacant positions and increase staffing in Code Enforcement and generally increase departmental capacity.

• Staff Coordination, Training and Hiring

- The Code Enforcement Division holds weekly internal staff meetings and facilitates a scheduled bi-weekly meeting with other City departments including OFD's Fire Prevention Bureau, City Attorney's Office, EWDD, and HCD to address effective and timely responses for complex cases.
- The Code Enforcement Division's Principal Inspection Supervisor and Senior Inspectors also attend numerous topic or case specific meetings joined by the Building Official, Principal Civil Engineer, and other staff on a continuous basis to consult with the City Attorney's Office, OPW, and other Departments and Divisions to clarify the action plan for compliance or escalation of enforcement depending on the issues involved.
- Code Enforcement Inspectors are also taking regular training to enhance knowledge and skills relative to their duties. For example, Inspectors recently attended a training in lead-based paint safe work practices and are preparing to take a Situational Awareness and de-escalation training to increase the ability to manage challenging site visits.

- To increase efficiency while responding to changes in staffing, Inspectors are being cross trained in other focus areas and, in some instances, reassigned to different units (i.e. Residential Inspections, Code Enforcement, or Commercial Inspections). Along with these changes, staff have reduced the turnaround times for a first-time inspection for the time a complaint was received from 48 hours to 24 hours.
- The recruitment for Specialty Combination Inspectors to fill vacancies within the Building Bureau is now a continuous job posting until all positions are filled. Two inspectors were hired in Quarter 4, however, two inspectors also retired during that same period.
- Additional Continuous recruitment for the Specialty Combination Inspectors will significantly impact the Code Enforcement Divisions ability to manage current complaints and address unresolved open cases.
- At present there are no Public Service Representatives and 1 Administrative Analyst. Recruitment for PSRs is ongoing with interviews to fill 2 positions in the Inspection Administration section expected for next quarter. Filling these two positions will increase Code Enforcement's capacity to close out open cases by taking some of the load off existing administrative staff.
- **Digital Enhancements**
 - Inspections App: The Code Enforcement Division is working with other departments to enhance tools and procedures to improve customer service and inter-departmental coordination as part of the "Reimagining City Permitting" initiative. After conducting research into the various steps of the process, key changes were piloted last quarter with the expectation that full implementation will be completed before the end of this calendar year. These changes include piloting the implementation of a software, Inspections App, which will allow Inspectors to more easily record inspection results in the field.
 - Ability to receive notifications from Inspectors related to estimated times of arrival.
 - Ability to create favorites for common notes for staff to copy and paste their most used inspection result templates or streamline access to navigate to standard comments lists.
- **Implementing New Laws and Regulations**

Code Enforcement operations are regularly impacted by the adoption of new or revised Municipal Codes or by new State or Federal laws and programs. This can lead to adjustments in how complaints are processed, how many complaints are received, the manner in which inspections are performed, and the level of urgency, legal escalation, or penalties certain violations may incur. New laws and programs include:

- Lead Based Paint Hazard Abatement Standards adopted into the OMC in December 2022: require all residential properties built before 1978 to obtain permits to confirm practices consistent with federal and state regulations are followed when presumed lead-based paint is disturbed due to painting and or construction activities.

- Standards for Delayed Enforcement for Accessory Dwelling Units and Joint Live/Work Quarters (JLWQ) adopted into the OMC in December 2022: when correction of violations is not necessary for health and safety, this Delay of Enforcement provides properties with non-compliant spaces to obtain a five-year period to bring the property into full compliance as long as minimum health and safety regulations are in place, as required by state law.
- Proactive Rental Inspection Program: the Planning and Building Department is working on a Proactive Rental Inspection Program (PRIP), which will be designed to conduct periodic inspections of residential rental units across the City to ensure the OMC-required levels of maintenance, safety, and habitability of such living spaces are met. Building Bureau staff are collaborating with the City Attorney's Office, Department of Race and Equity, Finance Department, Housing and Community Development, and others to finalize a proposal. There will be significant coordination required to address the impacts due to the increased volume of case management, potential impacts on tenants during implementation of compliance plans, and the schedules for property owners to address their violations. As of this new fiscal year, a Program Analyst was hired and assigned the priority of orienting the next steps towards carrying forward the PRIP program.

FISCAL IMPACT

There is no fiscal impact associated with the preparation of this Informational Report.

PUBLIC OUTREACH / INTEREST

No public outreach has been conducted for this informational report beyond the required posting to the City's website.

COORDINATION

This report was prepared in consultation with PBD's Director and has also been reviewed by the City Administrator.

SUSTAINABLE OPPORTUNITIES

This is an informational report, so there are no actions requested of the Council. The following areas of impact and opportunity are noted for further consideration.

Economic: Code enforcement activities have economic benefits by preserving quality of life and ensuring safety for Oakland residents, business owners, and visitors.

Environmental: Code enforcement activities have environmental benefits by enforcing codes designed to protect the environment and residents from adverse environmental impacts.

Race & Equity: Enforcement activities can have equity implications. For example, with the current complaint-based system, people with access to the system are more likely to submit complaints. Conversely, historically marginalized communities living in substandard conditions may be reluctant to submit complaints and may need outside assistance to make their buildings safer. With PRIP, PBD wants to take a proactive approach to supplement the current complaint-based system to better achieve equity in safe, affordable, and healthy housing.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive an Informational Report regarding the FY 2023-24 Quarter 1 update on the Planning and Building Department's Code Enforcement activities.

For questions regarding this report, please contact Chris Ragland, Chief Building Official, at 510-238-6435.

Respectfully submitted,



WILLIAM A. GHILCHRIST
Director, Planning and Building Department

Reviewed by:
Chris Ragland, Chief Building Official
Bureau of Building, Planning and Building
Department

Prepared by:
Michael Johnson, Administrative Analyst II
Luke Gunari, Building Bureau
Hoang Banh, Program Analyst III

Attachments (1):

A: Quarterly Code Enforcement Data and Statistics FY 2023-24, Quarter 1