

Nevada County
Civil Grand Jury
950 Maidu Ave.
Nevada City, CA 95959



NEVADA COUNTY GRAND JURY

Final Report
with
Responses

2009 - 2010



GRAND JURY
COUNTY OF NEVADA
Eric Rood Administration Center
950 Maidu Avenue
Nevada City, California 95959
Phone Number: 530-265-1730
Email: grandjury@nevadacountycourts.com

December 7, 2010

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Dear Judge Anderson:

It is my pleasure to forward to you the enclosed Consolidated Final Report from the 2009/2010 Grand Jury. This consolidated version includes all specific subject reports issued by that Jury and all responses thereto. The individual reports and their responses were released and made available to public officials, the media and the general public as soon as they were approved.

Our analysis of the responses was limited to determining whether they complied with the requirements and format dictated by California Penal Code section 933.05. No evaluation of the contents of each response was made. This review was conducted by the successor Jury, due to the fact that the responses were received after the close of the 2009/2010 Jury.

The original responses to both of these reports, the Assessor's Office and the Building Department were determined to be incomplete. Follow up responses were requested and received. The final responses were referred to committees of the current Jury to ensure the implementation of recommendations.

This Final Report completes our process of making Reports and Responses available to the public. In closing, the Jury wishes to express their appreciation to you and your staff for your valuable assistance and support.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diana Beer".

Diana Beer, Foreman
2010/11 Nevada County Grand Jury

MEMBERS OF THE NEVADA COUNTY CIVIL GRAND JURY 2009-2010

Robert Erickson
Foreman

Diana Beer
Foreman Pro Tem

Liz Rees
Secretary

Jim Purcell
Sergeant-at-Arms

Brenda Herbert
Business Manager

Barbara Bennette
Lennie Biundo
Pete Brost
Gary Davis
Max Fenson

Vicki German
Ray Hoffman
Thom Lyons
Virginia Neilson
Jim Pearce

Carolyn Roemelen
Larry Schwartz
Betty Underwood
Dan Van Alderwerelt

RESPONSE REQUIREMENTS

Following are the pertinent excerpts from the current California Penal Code concerning responses to the Civil Grand Jury report.

"Section 933(c): No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city or county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of

A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

"Section 933(d): As used in this section, "agency" includes a department.

"Section 933.05(a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

"Section 933.05(b): For purposes of subdivision (b) of Section 993, as to each grand jury

Recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analyses, with an explanation and the scope and parameters of an analysis or discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. The time frame shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

"Section 933.05(c): However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department of the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department."

The penal code also requires that the Grand Jury be available to the respondents for 45 days to clarify the recommendations of its report.

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Assessor's Office Response to Declining Real Estate Values

**Nevada County Grand Jury Report with Responses
2009-2010**

Assessor's Office Response to Declining Real Estate Values

Summary

Nevada County has been in a declining real estate market for several years. The Nevada County Grand Jury (Jury) was asked to investigate how the Assessor's Office was accounting for reduced home values in their assessments. The Jury interviewed members of the Assessor's Office and the Office of the Treasurer and Tax Collector, and reviewed applicable sections of the Revenue and Taxation Code.

Though not required to do so, the law allows the Assessor's Office to adjust property assessments downward when the current market value is less than the assessed value. For the preparation of the 2008/2009 assessment roll, which the County Auditor/Controller's Office uses to calculate property taxes, the Assessor's Office analyzed many of the homes in Nevada County to see if adjustments could be made and thus lower homeowners' property taxes.

The Assessor's Office developed a computer program to compare assessed values with the current market for basic single family homes between 800 and 3500 square feet without additions such as swimming pools or guest houses. It excluded properties with transfers of ownership before July 2004 on the assumption that the assessed values of earlier properties would be lower than their market value. After analyzing the result, the Assessor's Office reduced assessed values to match current market value for over 3,000 properties.

In addition to the computer analysis, the Assessor's Office reviewed and reduced many assessments at the homeowners' request. This is a standard practice in the Assessor's Office and can be initiated by any property owner. The property tax bill and the Assessor's Office website, <http://mynevadacounty.com/assessor/>, contain instructions.

The Jury commends the Assessor's Office for taking proactive action to help homeowners in a declining market. The Jury believes, however, that more could be done. For instance, the Jury found that many homeowners are not aware of their rights to ask for re-evaluation of their properties' assessments. More communication with homeowners, using the website and other media, could better inform the public of their rights. The Assessor's Office informed us that the computer analysis was only performed for the 2008/2009 assessment roll and was not repeated for the 2009/2010 roll. Since the analysis was such an effective tool for one roll, the Jury believes it should be used every year when the real estate market is depressed.

The Assessor's Office is not required to proactively adjust assessed values. It is ultimately the homeowner's responsibility to be aware of a property's assessed value and to request a review in a depressed market. Nevertheless, the Jury believes that the Assessor's Office has

a duty to assist the public by providing better communication and performing periodic analysis of the market.

During the span of the Jury investigation, the elected Assessor resigned and the Board of Supervisors appointed an interim Assessor to fill the balance of the term.

Reasons for Investigation

The Jury received a citizen's complaint regarding procedures in the Nevada County Assessor's Office concerning property assessments. Given the state of the real estate market in Nevada County, the Jury determined that the issue merited investigation.

Background

Proposition 13, enacted by California voters in 1978, amended the California Revenue and Taxation Code (R&T) and the California Constitution to limit the amount of increase to a property's base value to a maximum of two percent per year or the percentage of increase in the California Consumer Price Index, whichever is less. When the assessed value is increased, the resulting value is referred to as the factored-base year value. Base values may be adjusted when a property is purchased, newly constructed, or a change in ownership occurs.

Proposition 8, also passed by California voters in 1978, further amended the R&T to allow the county assessor to annually use either a property's factored-base year value (Proposition 13 value) or its current market value, whichever is less. When the current market value is less than the Proposition 13 value, that lower value is commonly referred to as a "Prop 8 value".

R&T Section 51 (e) clearly states that "Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

Assessed property values, referred to collectively as the assessment roll, are determined by the assessor as of 12:01 a.m. on January 1. The assessment roll closes on June 30 and is available to the public on July 1. This information is used by the Auditor/Controller to calculate the tax bill. For example, the tax bill mailed in October 2009 was based on the assessed value on January 1, 2009 and was labeled 2009-2010 for fiscal year July 1, 2009 to June 30, 2010.

The tax bill, mailed in October to each property owner, currently contains the following statement:

If you disagree with the Assessed Value, Revenue and Taxation Code Section §2611.6 states the following:

- (a) That if the taxpayer disagrees with the assessed value as shown on the tax bill, the taxpayer has the right to an informal assessment review by contacting the assessor's office.
- (b) That if the taxpayer and the assessor are unable to agree on a proper assessed value pursuant to an informal assessment review, the taxpayer has the right to file an application for reduction in assessment for the following year with the county assessment appeals board, during the period from July 2 to November 30, inclusive.
- (c) The address of the assessment appeals board is as follows:
 - Assessment Appeals Board
 - Clerk of the County Board of Supervisors
 - 950 Maidu Avenue
 - Nevada City, CA 95959

Nevada County has been in a declining real estate market for several years, as has much of California.

During the span of the Jury investigation, the elected Assessor gave notice that he would not fill the remainder of his term. An interim Assessor was appointed by the Board of Supervisors effective December 28, 2009 to serve until a permanent Assessor takes office in January 2011.

Procedures Followed

The Jury interviewed members of the Assessor's Office and of the Office of the Treasurer and Tax Collector. The Jury reviewed applicable sections of the Revenue and Taxation Code, the California Constitution, and material provided by the Assessor's staff.

Findings

- F.1.** Proposition 8 allows but does not require reassessments.
- F.2.** Proposition 8 does not require the Assessor's Office to publicize the possibility of a reduction in assessed value.
- F.3.** The Assessor's Office determined that a proactive posture would benefit many Nevada County property owners and instituted a computer-assisted process. Analysis indicated that some adjustments were warranted. The process was used only for the 2008-2009 assessment roll.

- F.4.** The Assessor's Office elected to exclude from the study properties that changed ownership prior to July 2004. The rationale given for this was that it was unlikely that the analysis would result in a lower assessed value.
- F.5.** The criteria used to select the properties for the analysis included:
 - a. Transfer of ownership between July 2004 and December 2008
 - b. 800-3500 square feet
 - c. Standard sales only (no foreclosures or short sales)
 - d. No swimming pools
 - e. Single family residences only
 - f. No guest houses
 - g. No extra garages
- F.6.** Properties not meeting the analysis criteria were excluded unless the property owner called the Assessor's Office to request a manual review.
- F.7.** Based on the computer-assisted analysis, a total of 3183 properties had their assessed values for the 2008-2009 tax year reduced.
- F.8.** Additional properties were reduced because of owner-initiated requests to the Assessor's Office.
- F.9.** The Assessor's Office provides information entitled "Property Assessment Basics" only on the website, <http://mynevadacounty.com/assessor/>. This information describes the procedures to follow in order to initiate a review by the Assessor's Office.

Conclusions

- C.1.** The Assessor's Office complied with the provisions of Proposition 8. (F1)
- C.2.** Using computer-assisted analysis made identification of properties potentially qualified for Proposition 8 adjustments much easier and more efficient. (F3)
- C.3.** Properties excluded from the computer-assisted analysis may be eligible for reduction. (F4, 5, 6)
- C.4.** Any property owner may request a review of the assessed value. (F8, 9)
- C.5.** Ultimate responsibility to initiate an assessment review resides with the property owner. (F1, 9)

- C.6.** More effective communication from the Assessor's Office would help the public understand their rights. (F2, 9)

Recommendations

- R.1.** The Assessor's Office should expand the computer-assisted analysis to include more properties. (C2, 3, 4)
- R.2.** The Assessor's Office should perform this computer-assisted analysis annually to support assessment decisions. (C2, 3)
- R.3.** Property owners should promptly review their tax bills. If they believe that the assessed value is too high, they should contact the Assessor's Office to request a review. (C4, 5)
- R.4.** In addition to maintaining the website, the Assessor's Office should issue press releases at least twice yearly, in April and October, to inform the public of their rights. (C5, 6)

Responses

Nevada County Assessor. June 1, 2010

RESPONSE

COUNTY OF NEVADA

JAMES J. DAL BON

ASSESSOR

950 Maidu Avenue
Nevada City, CA 95959-8600
(530) 265-1232
FAX 265-9858

May 18, 2010

The Honorable Tom Anderson
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Re: Assessor's Response to Nevada County Grand Jury report regarding the Nevada County Assessor's Office published April 1, 2010 on the Assessor's Office Response to Declining Real Estate Values

Dear Judge Anderson:

The following is my response to the report referenced above:

1. SUMMARY

Comment regarding first sentence in paragraph two quoted as follows:
"Though not required to do so, the law allows the Assessor's Office to adjust property assessments downward when the current market value is less than the assessed value".

Clarification

If the Assessor discovers that the current market value of a property is less than the assessed value the law requires that the Assessor enroll the lesser of the values. Section 51. (a) (2) is quoted as follows:

"For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall, except as otherwise provided in subdivision (b) or (c), be the lesser of :

(2) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

2. FINDINGS

F.1. Proposition 8 allows but does not require reassessments.

Disagree

When the market value of a property on the January 1st lien date falls below the factored base year value (also known as taxable value, Proposition 13 value and assessed value) the assessor is obligated to review the property and enroll the lesser of: the factored base year value or the market value of the real property.

3. Conclusions

C.5. Ultimate responsibility to initiate an assessment review resides with the property owner.

Disagree

California law requires that the Assessor assess all taxable property in accord with the provisions of the California Constitution, the Revenue and Taxation Code and the State Board of Equalization Property Tax Rules. Regardless of whether an assessee initiates a review of their property assessment, the ultimate responsibility to assess property in accord with the law resides with the assessor and this includes the act of initiating a review of the assessment.

C.6. More effective communication from the Assessor's Office would help the public understand their rights

Agree

A new public information pamphlet has been published and a copy is attached to this response.

4. Recommendations

R.1. The Assessor's Office should expand the computer-assisted analysis to include more properties.

Agree

This will be part of our analysis for the 2010/2011 assessment roll.

R.2. The Assessor's Office should perform this computer-assisted analysis annually to support assessment decisions.

Partially Agree

We will utilize the computer resources as required.

R.3. Property owners should promptly review their tax bills. If they believe that the assessed value is too high, they should contact the Assessor's Office to request a review.

Agree

Every taxpayer should be aware of the details of their property tax assessment.

R.4. In addition to maintaining the website, the Assessor's Office should issue press releases at least twice yearly, in April and October, to inform the public of their rights.

Partially Agree

As a service to the public the Assessor should be proactive in keeping taxpayers informed as to assessment information that could impact their property assessments.

Respectfully Submitted,



James J. Dal Bon, Assessor
County of Nevada

Cc: Nevada County Board of Supervisors

What the Assessor will do:

When there is evidence that property value is declining the Assessor is obligated to conduct a review of property assessments.

The Assessor must value your real property, as of the January 1st lien date, at the lower of your property's Proposition 13 or market value.

Properties that decline in value can be difficult to identify. If you believe that your assessment exceeds the market value of your property you can apply for a review of the assessment.

Applying for a value review:

You may initiate a review of your property's assessment by phone, in writing or by visiting our office. You may also go to our website by following the prompts on the "mynevadacounty.com" home page.

Any property owner who has real property in Nevada County can apply for a market value review (Prop 8). For property in another county please contact that specific county.

If you received a Proposition 8 reduction it is not necessary to re-apply each year. Any property on Proposition 8 is automatically reviewed annually based on market value as of the January 1st lien date.

Disclaimer

This pamphlet is a general summary and is not a comprehensive guide to Proposition 8, Proposition 13, or property valuation. If you require assistance please contact the Nevada County Assessor's Office.

Office Address & Hours

**Nevada County Assessor
950 Maidu Ave.
Nevada City, CA 95959
Phone: 530-265-1232
Fax: 530-265-9858**

Mynevadacounty.com/assessor

Hours

Monday – Friday
8:00a.m.-5:00p.m.



Email: assessor@co.nevada.ca.us

Nevada County
Assessor

**Decline in
Market Value
(Proposition 8)**

What happens when the
value of your real estate
declines?



Nevada County Assessor
James J. Dal Bon

Decline in Value

Proposition 13:

Proposition 13, passed in 1978, established a new method for property tax assessments. Under this proposition the market value assessments for the 1975-76 tax year serve as the original base-year values. Thereafter, a new base-year value is established whenever there is a change of ownership or assessable new construction. The base-year value is adjusted each year for inflation based on the California "Consumer Price Index," to a maximum of 2 percent.

Proposition 13 Assessment

Example:

A home is purchased and is assessed at a market value of \$374,000 by the Assessor's office.

Home values go up 12% the next year and the home's actual market value is \$ 418,880. The owner is not taxed on the new \$418,880 market value. Under Prop. 13, the taxable value can only go up 2% or less for an inflationary adjustment. The maximum new taxable value would be \$381,480, ($\$374,000 \times 1.02$). In each succeeding year during the same ownership the assessment will be subject to the inflationary adjustment.

Proposition 8:

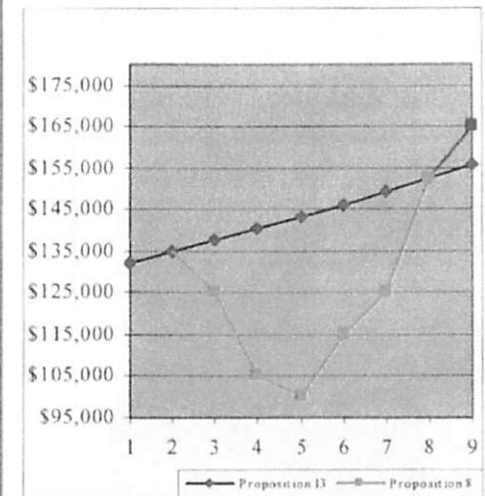
Proposition 8, passed in 1979, requires that your assessed value never exceed actual market value. When the market value of a property on the January 1 lien date falls below the factored base year value (assessed value), the assessor is obligated to review the property and enroll the lesser of: the factored base-year value (Proposition 13 value) or the current market value (Proposition 8 value) of the real property.

If the January 1st factored base year (Prop 13) value of a home is higher than its market value then the owner will qualify for the lower market value assessment (Proposition 8). This provides tax relief to taxpayers in a declining real estate market.

A Proposition 8 Example:

Assume that your Prop. 13 assessed value is \$135,000. Assume that sales of similar homes around the January 1st lien date have been about \$125,000. This indicates that your home could qualify for a lower assessed value and the resulting tax relief.

Below is a graphic example of a home's assessed values over a nine year period under Prop. 8 and Prop. 13.



In this example, the property was assessed at the Proposition 13 value for years 1 and 2; however, in years 3, 4, 5, 6 and 7 the market value was below the Prop. 13 value and the taxpayer paid taxes on the lower market value, which has become the taxable value.

In year 6 the market begins to recover and continues to recover each year until the value is brought back to the original Proposition 13 factored base value in year 8. In year 9 the market value rises above the Prop. 13 value.

A property can be under Proposition 8 for multiple years depending on the severity and length of the market decline. Once a property is assessed in accord with Proposition 8 the value is reviewed annually to determine the value as of January 1st.

COUNTY OF NEVADA

JAMES J. DAL BON

ASSESSOR

950 Maidu Avenue
Nevada City, CA 95959-8600
(530) 265-1232
FAX 265-9858

June 16, 2010

The Honorable Thomas M. Anderson
Presiding Judge of the Civil Grand Jury
201 Church Street
Nevada City, CA 95959

Re: Assessor's Response to Nevada County Grand Jury report regarding the Nevada County Assessor's Office published April 1, 2010 on the Assessor's Office Response to Declining Real Estate Values

Dear Judge Anderson:

This is in response to your letter of June 14, 2010 stating that my original response did not comply with Penal Code Section 933.05. Regrettably I misunderstood the requirement that I respond to each finding whether I agreed or disagreed and apologize for any inconvenience resulting from my confusion.

The following is my response to each of the findings:

Findings

F.1. Proposition 8 allows but does not require reassessments.

Disagree

When the market value of a property on the January 1st lien date falls below the factored base year value (also know as taxable value, Proposition 13 value and assessed value) the assessor is obligated to review the property and enroll the lesser of: the factored base year value or the market value of the real property.

F.2.

Agree

F.3.

Agree

F.4.

Agree

F.5.

Agree

F.6.

Agree

F.7.

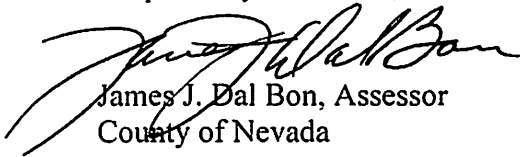
Agree

F.8.

Agree

If you have any questions please contact me.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James J. Dal Bon".

James J. Dal Bon, Assessor
County of Nevada

Cc: Diana Beer, Foreman Pro-Tempore
Nevada County Grand Jury 2009-2010

COUNTY GOVERNMENT

**Nevada County Building Department
Dollars and Sense**

**Nevada County Grand Jury Report with Responses
2009-2010**

NEVADA COUNTY BUILDING DEPARTMENT DOLLARS AND SENSE

Summary

The Nevada County Civil Grand Jury, in the process of investigating citizen complaints, found inconsistent application of local policies and the Land Use and Development Code within the Nevada County Building Department. These inconsistencies involved the issuance of permits, extension of permits and fees charged. The Jury determined that the failure to charge applicable fees resulted in an unjustifiable, and perhaps significant loss of revenue.

In their response to the 2008-2009 Grand Jury report, the Nevada County Board of Supervisors emphasized the fact that the Building Official has the authority to assess penalty fees in cases where work has begun without a permit, but did not wish to make the penalty fees mandatory. The current Jury, after reviewing a number of cases, found that penalty fees were not applied, and there is no trackable explanation. The Jury believes that it makes sense to revise the LUDC to make the assessment of penalty fees the rule rather than the exception.

Reasons for Investigation

The Nevada County Civil Grand Jury (Jury) issued a report during the 2008-2009 term entitled "County Code Enforcement – A Continuing Concern". The response to that report, prepared by the Board of Supervisors (Board), stated that several of the recommendations made by the Jury were to be implemented by the Building and Planning Departments of the Community Development Agency (CDA) within one year. The current Jury followed up on those recommendations to ensure that they had, in fact, been implemented.

In addition, the current Jury received several citizen complaints regarding fee and permit procedures in the Building Department, especially involving construction without applicable permits, and determined that further investigation was warranted.

Background

The Building Department (Building) and the Planning Department (Planning) are components of the CDA, which is an umbrella agency for several departments: Building, Planning, Environmental Health, Housing and the Agricultural Commissioner.

Building is considered to be a Special Revenue Fund. It is funded primarily by fees collected, and receives minimal General Fund money for operations.

Building reviews construction plans, issues construction permits, assesses fees and conducts required inspections to ensure that construction is done properly, in accordance with all applicable codes. Inspections are performed when the permit holder notifies Building that a particular phase of the construction is ready for an inspection. Building also works with property owners to resolve code violations found by the Code Compliance Division.

The Code Compliance Division (Code) is not a Special Revenue Fund. It is funded primarily by the General Fund.

Code is a division of the Planning Department. It responds to and investigates written complaints received from County residents with regard to perceived violations of the Land Use and Development Code (LUDC), and any other County codes relating to land use. Code Enforcement Officers can also open an investigation if they observe construction being performed without a valid building permit.

According to LUDC Sec. L-V 2.8 Section 105.5, building permits for elevations below 5,000 feet are valid for a period not to exceed 180 days. Any completed inspection required by the permit extends the permit for six months from the date of the inspection. Within six months following the expiration date of the permit, the permit holder, with payment of applicable fees, can reopen the permit. If the period exceeds six months, the applicant must apply for a new permit, and pay new fees. For elevations above 5,000 feet the applicant is allowed one year.

Building maintains a set of policies on its web page to aid and assist property owners and contractors with the permit process.

Building Department Policy BD-CSC-07-006 states “As-built construction is defined by the Building Department as construction of a structure or building without permits or the benefit of inspections.”

To legalize an un-permitted (as-built) building or structure, the following are required:

- A completed permit application
- A site plan
- A set of plans which describe how the structure was built (as-built plans)
- Payment of applicable Building Department fees, which may include penalties
- Payment of other applicable agency fees
- Inspections
- Final approval

According to the LUDC Sec. L-V 2.13 Section 108.4, applicable fees “may be increased by the Building Official but shall not be more than double the fees specified for obtaining the permit for the first violation and not more than fourfold the fees specified for obtaining the permit for a second or subsequent violation by the same individual. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or the technical codes in the execution of the work nor from penalties prescribed in Sections L-I 1.7 and L-V 2.3 of the Land Use and Development Code.”

Procedures Followed

The Jury interviewed the complainants, reviewed the information they supplied and reviewed the 2008-2009 Jury report. The Jury interviewed County staff and managers in the CDA in an effort to get a complete and accurate understanding of the way Building and Planning function.

The Jury requested, obtained and studied files kept by both Code and Building regarding the properties that were the subjects of the complaints received by the Jury. The complainants had given permission to the Jury to disclose property addresses involved in the complaints to the Departments in order to verify specific information. This information was provided to Building and Code.

The Jury also reviewed sections of the LUDC and procedural documents provided by the Departments.

Findings

The LUDC allows the Building Official to impose penalty fees for permits issued for as-built construction.

- F.1.** The LUDC allows the Building Official to impose penalty fees for permits issued for as-built construction. As-built permits reviewed by the Jury were issued without applicable penalty fees.
- F.2.** Building is not required to document why penalty fees are not imposed.
- F.3.** As-built permits reviewed by the Jury were issued without required plans.
- F.4.** The Building computer system generates a letter when a permit is about to expire. This letter is sent to the permit holder. If there is no response, the permit is allowed to expire.
- F.5.** If a permit was originally opened as a result of a Code Compliance investigation, and the permit expires, the Code Enforcement Officer reopens the case.
- F.6.** Owner initiated permits for as-built construction are allowed to expire without further investigation.
- F.7.** Building permits were extended without payment of applicable fees.

- F.8.** At the time of the Jury investigation, Policy BD-CSC-07-009 was shown on the Building web page with an effective date of January 30, 2007. This policy is in conflict with State Building Codes effective January 1, 2008, which changed the length of a permit from one year to 180 days, except in areas above 5000 feet elevation.
- F.9.** The following recommendations from the 2008-2009 Jury report on Code Compliance have been implemented:
- Nuisance Abatement Ordinance
 - Administrative Citation Ordinance

Conclusions

- C.1.** When building permits for as-built construction are issued without penalty fees, it
- results in reduced revenue
 - fails to send a message to offenders
 - is unfair to those who are required to pay penalty fees (F1, F2)
- C.2.** Lack of documentation to explain decisions regarding penalty fees leaves unanswered questions regarding fairness. (F3)
- C.3.** When building permits for as-built construction are issued without required plans, it increases the possibility of unsafe or illegal conditions. (F4)
- C.4.** When building permits (including as-built permits) expire without final inspection, code violations may exist, including the possibility that a safety hazard may be left unresolved. (F5, F7)
- C.5.** Inconsistent application of extension fees results in loss of revenue and is unfair to those who are required to pay. (F8)
- C.6.** Outdated policies on the Building web page, intended to provide guidance to applicants, cause confusion. (F9)

Recommendations

The Board of Supervisors should direct staff to:

- R.1.** Submit an Ordinance for Board approval, amending the LUDC Sec. L-V 2.13 Section 108.4 to read that applicable fees “shall be increased by the Building Official” rather than “may be increased by the Building Official”. (C1)

- R.2. Develop and implement a procedure for tracking permit penalty fees, which can be audited, including a detailed explanation as to why fee exceptions take place. (C1, C2)
- R.3. Develop and implement a procedure in which exceptions to permit processes and/or approvals are fully documented in order to provide evidence of equal treatment. (C1, C2, C3)
- R.4. Develop and implement a procedure in which the department is notified by the system when permits expire, so that manual review of the file can take place. (C4)
- R.5. Develop and implement a procedure for tracking “as built” permits to ensure that they are referred to Code after expiration. (C4)
- R.6. Develop and implement a procedure to ensure that applicable permit fees are applied consistently. (C5)
- R.7. Review all policies contained on the Building web page to ensure that they are in compliance with State and County Building Codes. (C6)

Responses

Nevada County Board of Supervisors, September 2, 2010

RESPONSE

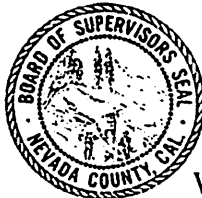
COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue, Suite 200 • Nevada City, California 95959-8617

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Telephone: (530) 265-1480

Fax: (530) 265-9836

Toll-Free Telephone: (888) 785-1480

Cathy R. Thompson
Clerk of the Board

E-Mail: bdofsupervisors@co.nevada.ca.us
Web: www.mynevadacounty.com/clerkofboard

September 21, 2010

The Honorable Thomas Anderson
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' revised responses to the 2009-2010 Nevada County Civil Grand Jury Report, *Nevada County Building Department – Dollars and Sense*.

Dear Judge Anderson:

In response to the letter dated September 9, 2010 from Grand Jury Foreman Diana Beer, the Board of Supervisors hereby submits its revised responses to the 2009-2010 Grand Jury report, "*Nevada County Building Department – Dollars and Sense*," as approved at its regular meeting September 21, 2010.

The Foreman's letter informs Chairman Beason that the Board's response does not comply with Penal Code Section 933.05, but does not specify which response(s) were out of compliance. Staff contacted the Grand Jury Foreman and confirmed that the Response to Recommendation B.4 needed to include a specific date for implementation. Also, in reviewing the response to Recommendation B.1 on page 2, the response begins with "Disagree" instead of "The recommendation will not be implemented." Both corrections have been made, and the revised Responses are submitted herewith.

Sincerely,

Nathan H. Beason
Chairman, Board of Supervisors

cc: Diana Beer, Foreman, Grand Jury
Rick Haffey, County Executive Officer
Steven DeCamp, Community Development Agency Director

NEVADA COUNTY BOARD OF SUPERVISORS *REVISED* RESPONSES TO
2009-2010 CIVIL GRAND JURY REPORT
DATED JUNE 4, 2010:

NEVADA COUNTY BUILDING DEPARTMENT
DOLLARS AND SENSE

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, the Community Development Agency Director or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

- 1. The LUDC [Nevada County Land Use and Development Code] allows the Building Official to impose penalty fees for permits issued for as-built construction. As-built permits reviewed by the Jury were issued without applicable penalty fees.**

Agree.

- 2. Building is not required to document why penalty fees are not imposed.**

Agree.

- 3. As-built permits reviewed by the Jury were issued without required plans.**

Agree.

The 2007 California Building Section 106.1 Exception allows the Building Official to waive the submission of construction documents and other data if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with the Code.

- 4. The Building computer system generates a letter when a permit is about to expire. This letter is sent to the permit holder. If there is no response, the permit is allowed to expire.**

Agree.

- 5. If a permit was originally opened as a result of a Code Compliance investigation, and the permit expires, the Code Enforcement Officer reopens the case.**

Agree.

6. **Owner initiated permits for as-built constructions are allowed to expire without further investigation.**

Disagree.

Expired permits are reviewed and permits for as-built construction are sent to the Code Compliance Division of the Planning Department for investigation.

7. **Building permits were extended without payment of applicable fees.**

Agree.

8. **At the time of Jury investigation, Policy BD-CSC-07-009 was shown on the Building web page with effective date of January 30, 2007. This policy is in conflict with State Building Codes effective January 1, 2008, which changed the length of a permit from one year to 180 days, except in areas above 5000 feet elevation.**

Agree.

9. **The following recommendations from the 2008-2009 Jury report on Code Compliance have been implemented:**

- **Nuisance Abatement Ordinance**
- **Administrative Citation Ordinance**

Agree.

B. RESPONSES TO RECOMMENDATIONS

1. **Submit an Ordinance for Board approval, amending the LUDC Sec. L-V 2.13 Section 108.4 to read that applicable fees “shall be increased by the Building Official” rather than “may be increased by the Building Official”.**

The recommendation will not be implemented.

The Building Official must have the ability to impose or not impose increased fees based upon a case by case review. There are times that a property owner has purchased a property with violations performed by the previous owner. If the new owner wishes to bring the property into code compliance, the new owner should not be charged a penalty for this corrective action. The Building Official must have the flexibility to ensure reasonable application of the Code.

- 2. Develop and implement a procedure for tracking permit penalty fees, which can be audited, including a detailed explanation as to why fee exceptions take place.**

The recommendation will be implemented within one year.

The Building Department will prepare a policy and procedure to include an explanation of fee exceptions attached to the specific permit number.

- 3. Develop and implement a procedure in which exceptions to permit processes and/or approvals are fully documented in order to provide evidence of equal treatment.**

The recommendation will be implemented within six (6) months.

A protocol will be developed and implemented to document exceptions to permit processes and/or approvals within each building permit file.

- 4. Develop and implement procedure in which the department is notified by the system when a permit expires, so that manual review of the file can take place.**

The recommendation has been partially implemented and will be fully implemented on June 30, 2012.

The Building Department computer system has the ability to compile and print a report identifying all expired permits.

Current staffing levels in the Building Department are not sufficient to allow manual review of all expired permits. This recommendation will be implemented when the economy recovers and staffing levels reach a practicable level to support manual review of all expired permits, by June 30, 2012.

- 5. Develop and implement a procedure for tracking “as-built” permits to ensure that they are referred to Code after expiration.**

The recommendation will be implemented within one year.

6. Develop and implement a procedure to ensure that applicable permit fees are applied consistently.

The recommendation has been previously implemented.

The Building Department computer system generates all fees for each permit included in the Fee Schedule adopted by the Board of Supervisors. This computer program generates all fees for each permit.

7. Review all policies contained on the Building web page to ensure that they are in compliance with State and County Building Code.

The recommendation is being implemented and will be completed within one year.