



# MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT  
Internal Audit Division

## INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager  
VIA: Kathie G. Brooks, Budget and Performance Improvement Director   
FROM: James J. Sutter, Internal Auditor 

DATE: July 29, 2010  
AUDIT: Code Compliance Enforcement  
PERIOD: October 1, 2008, through September 30, 2009

### INTRODUCTION

This report is the result of an audit performed on Code Compliance enforcement activities in accordance to our Audit Plan. Code Compliance monitors residential and commercial districts for potential violations of the City Code and is responsible for ensuring compliance with the code of the City of Miami Beach. Common code violations include: zoning violations, minimum housing standards, property maintenance standards, noise ordinance, real estate signs, signs in right-of-way, all sign regulations, sidewalk cafes, business tax receipts, certificate of use, illegal vendors, regulations concerning the hours of construction, operating hours for nightclubs, bars, liquor stores; hours of sale of liquor, and marine regulations. The Division responds to complaints received from various sources, such as walk-ins, phone calls, and emails including those received from City administration and other departments, as well as through the City's external website. In addition, City code violations are identified as part of routine patrols made by code compliance officers.

The Code Compliance Division uses the Permits Plus system to store and keep track of complaints and code violations. Since Permits Plus is also used by the Building and Fire departments and the Special Master, each area identifies their respective cases with different prefixes. Code Compliance uses "XC" for complaints received, other than noise-related, and for code violations identified on routine patrols where a Courtesy Notice is issued to allow the violator time to correct the problem(s) identified. If the violator does not comply within the time required on the Courtesy Notice, a violation case is created. Routine patrol violations may also result in code enforcement cases, from the start, if the action needed should be stronger than a warning or it carries an automatic fine. These cases are identified with a "CE" prefix in the Permits Plus system. The XC and CE prefixes are followed by the two-digit fiscal year and a unique six-digit number assigned by the system.

Noise-related complaints have become a priority for City code compliance enforcement by a Noise Ordinance (Chapter 46, Article IV) and all complaints must be tracked with a CE case number on Permits Plus, regardless of whether they are valid or invalid complaints. If valid and there is no prior violation within the preceding 12 months, a written warning is issued to the violator. Subsequent valid complaints within a 12-month period after the initial written warning follow an escalating fine schedule for repeat violations of the ordinance.

For the audit period (10/1/08-9/30/09) 3,464 (XC) complaints and routine patrol violations were identified in the Permits Plus system as shown in the table below. It should be noted that procedures require walk-in and phone complaints received by clerical staff to be entered in Permits Plus with an XC number. However, phone and e-mail complaints received directly by code compliance officers are not entered unless they are found to be valid, in which case these are

entered in Permits Plus with a CE number.

<b>Table 1 - # of Complaints (XC) Received for FY 2008/09 by Status</b>			
<b>Status</b>	<b>Complaints Received</b>		<b>Description</b>
VIO	986	28.5%	Complaint substantiated/violation case to be opened
INVALID	1,829	52.8%	Complaint was not substantiated
NOTICE	106	3.0%	Courtesy Notice issued (pending re-inspection)
NOVIO-C	384	11.1%	Courtesy Notice issued/compliance achieved
VIO-C	83	2.4%	Courtesy Notice issued/compliance NOT achieved
ASSIGNED	61	1.8%	Complaint routed to an Inspector to check out
	15	.4%	Miscellaneous complaints
<b>3,464</b>			<i>SOURCE: Data was obtained from Permits Plus system on 12/4/09</i>

During the same period there were 10,120 enforcement cases (CE) for the types of violations shown in the following table:

<b>Table 2 - # of Case (CE) Recorded for FY 2008/09 by Type</b>			
<b>Type</b>	<b>Cases Recorded</b>		<b>Type of Violation</b>
CNOISE	3,622	35.8%	Noise *
CCVIO	3,287	32.5%	City Code
CPMVIO	1,303	12.9%	Property Maintenance
CSVIO	1,063	10.5%	Sanitation
CZVIO	831	8.2%	Zoning
CMVIO	14	.1%	Marine
<b>10,120</b>			<i>SOURCE: Data was obtained from Permits Plus system on 12/4/09</i>

\* Of the 3,622 reported noise cases approximately 130 (3.6%) were cited as violations; 460 (12.7%) were given verbal or written warnings; and 3,032 were either invalid (not found in violation of ordinance), cancelled by the complainant, or voided (83.7%).

The process followed for complaints or routine patrol citations (XC) and noise complaints or code violation cases (CE) when entered in the Permits Plus system is for the code officer to open a record to have the system assign a number and to open the paper document file. Subsequently, the system record is expanded with additional information completed by Code Compliance clerical staff.

Starting in 2009, officers in the field use the Code Compliance Daily Report (Daily), an in-house developed tracking system for accountability purposes to record all inspections, complaints addressed, violation details, etc. As indicated by Code Compliance's Director and Lead Administrator, the Permits Plus system has functionality limitations such as the lack of interface with the City Financial System to create City Bills and process payments. They also indicated that the Permits Plus system is expected to be replaced by the purchase and implementation of an enterprise building development process service system.

Code enforcement violations such as sanitation, receive automatic fines in addition to requiring compliance; other code violations may also result in fines if not corrected within the allowed time frame. All fines imposed may be contested with a judge or Special Master; Code Compliance also refers non-compliance cases to the Special Master. However, failing to appeal the violation within the allowed time is considered an admission of guilt and requires payment to be made.

Payments for code violations are sometimes made by check directly at the Code Compliance location. These are recorded on a Miscellaneous Cash Receipt (MCR) form and processed according to the method of payment. For those being made in cash or by credit card, the person making the payment is given the MCR form and sent to the Cashier's Office under the direction of the Finance Department where the actual payment is received and the cashier validates the MCR. After making the payment, the person is instructed to return the validated MCR form to Code Compliance, where the clerical staff documents the receipt of payment and closes the case in Permits Plus. For payments made by check, a copy of the completed MCR is given to the person making the payment as a receipt. Checks received and their corresponding MCRs are taken by clerical staff to the Finance Department for processing and MCR validation, before the case is closed in the Permits Plus system.

When payments for City code violation fines are not received in a timely manner, code officers instruct clerical staff to prepare and mail a City Bill to the person or business entity responsible for payment of the assessed fine. City Bills are created through the Eden Financial system, which generates account receivable entries for the payments due. The receipt of City Bill payments by the Finance Department had not been consistently communicated to Code Compliance; however, in June 2009 Finance started providing a detail of City Bills payments received with their corresponding code violation case numbers. The Finance department monitors the aging of City Bills due and places recorded liens on the property/business location on significantly past due payments.

## **OVERALL OPINION**

As a result of our audit we were able to identify the need to improve the level of internal controls and application of these controls over Code Compliance of City ordinances. Our testing revealed numerous deficiencies over most aspects of code compliance enforcement, which are summarized below:

1. The interpretation of the Noise Ordinance (Chapter 46, Article IV) given to Code Compliance by the City Attorney's Office has resulted in a different approach for the enforcement of the City ordinance based on the expiration period for written warning of violations. Their interpretation does not consider the time elapsed since the last offense citation within the preceding 12 months, allowing more warnings to be issued and affecting whether a violation should be cited as 1st, 2nd, or subsequent offenses.
2. We found three valid noise-related violations closed within a two-week period for the same property address, because they were never issued City Bills and there is a new owner for the property. All valid complaints occurred within a 12-month period.
3. We noted 5 of 50 code enforcement cases reviewed that that were not processed in a timely manner by the code officer assigned and/or did not receive the proper follow-up.
4. We noted 7 of 50 code enforcement cases reviewed where necessary documents have not been prepared or cases were not processed in a timely manner by clerical staff, such as failure to prepare City Bills and taking as long as 3 months to set up document files.
5. There were deficiencies noted in 8 of 50 code enforcement cases reviewed in the processing of these cases by Code Compliance Division personnel.
6. Code Compliance personnel are erroneously entering "Complied by" and "Closed" dates in Permits Plus when preparing City Bills for code enforcement cases, although the case is open.
7. We found approximately 40 complaints "assigned" to a code officer for inspection that were added to Permits Plus from 3/24/09 through 9/30/09 and still remain with this status.
8. We reviewed 10 of 104 Courtesy Notices issued during FY 2009 that remain with

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status=NOTICE. These are issued as a result of complaint inspections, code officer observations during routine patrols, or scheduled annual inspections with a time allowance for compliance no longer than 30 days. Additionally we found another 481 notices issued between 6/1/02 and 9/30/08 that remain with this status.

9. We found a significant number of code enforcement cases entered prior to FY 2009 that have not been properly followed up or addressed by Code Compliance. (Status=OPEN) 680 cases entered between 10/4/01 and 9/30/08; (Status=SMMASTER) 405 cases created between 11/8/01 and 9/30/08 appear to have been sent to the Special Master for judgment; (Status=BILLOWE) 1,896 cases created between 10/1/01 and 9/30/08 where a City Bill was issued and appears to remain unpaid. A review of these cases identified that several had been paid, but the status remains unchanged.
10. A review of code enforcement cases prior to FY 2009 also identified cases with a temporary status that remain in the system, indicating lack of proper follow up by Code Compliance personnel. (Status=BILLPEND) 18 cases pending the issuance of a City Bill entered between 12/28/02 and 12/3/06; (Status=XXXXXXXX) 20 cases between 1/18/08 and 8/25/08 with this temporary status for cases opened and not yet given a real status; and (Status=WAITCERT) this temporary status had 25 cases since 2/14/05 through 9/26/08 waiting for the return of the Post Office green card that shows when a certified mail notice is received.
11. The Finance Department has not placed a recorded lien with the County on a property for non-payment of two City Bills issued 4/12/09 and 9/17/09 for sanitation violations totaling \$1,689. Additionally, 22 other City Bills are overdue for 120 days or more as of the audit period no liens have been recorded with the County.
12. Policies and procedures for the code enforcement function are outdated. In absence of an updated policies and procedures manual, the Division relies on the presentation slides used for training Code Compliance personnel.
13. The progress report log completed by the code officer, clerical staff or Administrator to document actions, instructions or comments on code enforcement cases is being unnecessarily duplicated for the same entries.
14. As a result of our verification of key performance indicators and departmental measures, we noted that descriptions used on Active Strategy do not properly reflect the information being reported, and/or do not describe the source or methodology used to calculate numbers being reported for these performance measures.

In conclusion, the exceptions briefly detailed above evidence the deficiencies in the processes used by code compliance in the enforcement of the City ordinances that include the lack of timely response and follow-up for code compliance complaints and cases; inadequate processing of case documentation and enforcement actions, including the billing of violation fines; and ineffective collection efforts by Code Compliance and Finance. While this condition is exacerbated by the limitations of the current enterprise system used, it is imperative that the City continue its search for a replacement system and reexamine the procedures used in order to streamline the entire process for better efficiencies of resources. Additional details regarding the above mentioned and other areas in need of correction are provided on the Findings, Recommendations, and Management Responses section of this report.

## PURPOSE

To determine whether the Code Compliance Division maintains adequate levels of internal controls over the enforcement of compliance with City ordinances, which includes the timely response and proper enforcement of complaints received; ensuring code violators receive prompt notification of

violation details, compliance deadlines and applicable fines; initiating collection efforts for assessed fines; referring and providing adequate support for cases sent to the Special Master; and maintaining adequate and accurate records of complaints and enforcement cases.

## SCOPE

1. Determine that fines and liens imposed for code violations are in compliance with the City ordinance.
2. Verify that the City has received the amounts due for code violations and that these are accurately recorded in the code compliance records and the City's financial system.
3. Determine adequacy of accountability for the status of code violations.
4. Evaluate the effectiveness of the follow-up efforts used to collect fines and liens due.
5. Confirm that performance measures are accurately calculated and supported by adequate source documentation.

## FINDINGS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES

### 1. Finding – Noise Ordinance Enforcement

Chapter 46, Article IV defines the Noise Ordinance for the City and what “noise” would be considered a code violation. These can result in a written warning or fines, depending on the number of violations within a 12-month period. A written warning carries no fine, but if two or more valid noise violations occur within a 12-month period, the violator can receive a citation according to an escalating fine schedule. However, a recent interpretation by one of the City's Special Master has resulted in a different approach for the enforcement of the code based on the expiration of a written warning after the 12-month period. Per the Special Master interpretation, violations can not be issued unless a written warning has been issued within the previous 12-month period. If the first written warning has expired and other violations have been issued afterwards, a second written warning has to be issued prior to any future violation being issued. This interpretation does not take into account the time elapsed since the last offense citation within the preceding 12 months as described in Section 46-159 of the ordinance. This will allowed more written warnings to be issued thus affecting whether a violation should be cited as 1st, 2nd, or subsequent offenses as detailed in the example described below. The City Attorney Office has acknowledged this interpretation and instructed the Code Compliance Division to cite written warnings and violations in this manner until such change to the City Code can be made.

### Recommendation

City Administration should review the current Noise Ordinance to consider eliminating any ambiguity in its contents and the need for a legal interpretation of its enforcement.

### Management's Responses (Code)

Management agrees with this recommendation. It will bring the concern to the City Commission to determine if a change in the ordinance is desirable.

### 2. Finding – Noise-related cases/City Bills

Our review of closed noise-related enforcement cases (type=CNOISE, status=CLOSE) for FY 2009 resulted in 12 cases. Further review identified that three cases closed within a two-week period belonged to the same property address: 4442 Prairie Avenue (CE09004194,

CE09004254 and CE09004780). In closing these cases, the Lead Administrator indicated that there was a new owner for the property and since these cases were never issued City Bills he had to close them, but that the new owner had paid for one other case that did have a City Bill outstanding. Also, since the three violations described at the beginning of this comment occurred within the same 12-month period, they should have been billed as second, third and fourth offenses, carrying fines of \$1,000, \$2,000 and \$3,000 respectively.

Recommendation

Code officers need to process valid noise complaints in a proper and timely manner to ensure adequate enforcement of the City Noise ordinance, including issuing the City Bills as soon as possible after the violation is written. The current procedure should be re-evaluated with the Finance Department to add stronger collection efforts for unpaid City Bills.

Management's Response (Code)

Management agrees with this recommendation.

The Division is up to date on issuance city bills for all noise cases and is currently refining the city bill process to issue city bills within 24 hours for all cases that carry automatic fines, including noise cases. The new process will include daily reporting and control mechanism.

Additionally, the responsibility to issue the City bills will be performed by the Administrative Services section of the Department and the appropriate number of clerical personnel to support that function will be transferred over.

Management's Response (Finance)

The Finance Department in its monthly meetings with the Code Compliance Division will review current invoicing and collection efforts for Code invoices. The Finance Department posts and mails invoices on a daily basis when inputted and approved by City Departments and Divisions. Currently, City departments and divisions are responsible for collecting invoices generated within their department or division. The Finance Department has one staff member who devotes part of their week to collection efforts for invoices generated within the Finance Department; i.e. Utility Bills and Business Tax Receipts.

If it is the desire of the City for the Finance Department to assist with departmental collection efforts, additional employee resources are needed. Current staffing levels within the department are not adequate to provide collection efforts for the entire City. The Finance Department has lost over 30% of their staff during the past several years of budget cuts.

3. Finding- Processing of Cases by Code Officers

A random sample of 50 code enforcement cases was selected from a population of 10,120 for FY 2009. This methodology was used due to the significant number of types, sub-types and statuses for code enforcement cases. For the sample selected we reviewed the Permits Plus system's relevant information; case file documentation prepared by Code Compliance staff; and discussed concerns and observations with the Lead Administrator.

The following code enforcement cases were not timely processed and/or did not receive the proper follow-up by the code officer assigned.

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- a. CE09000901: Property was re-inspected for compliance to zoning violation 2½ months after the scheduled inspection.
- b. CE09001698: This sanitation violation required an inspection in 24 hours to determine compliance or assess the proper fine. However, code officer did not inspect for 18 days at which time trash had been picked up, thus no fine was assessed.
- c. CE09004689: Case documentation indicates that the case should be closed due to compliance, but there has been no Certificate of Compliance so the case can be closed/dismissed by the Special Master.
- d. CE09009730: A re-inspection was due 30 days after violation, but during our review 90 days after it had not been done. We were informed that case was recently re-assigned to another code officer. Non-compliance warrants that the case be referred to the Special Master to determine proper enforcement action.
- e. CE09009875: Case was closed on 12/15/09 without a fine when the night administrator verbally informed code officer that the resident was no longer parking on the lawn. This appears to be as a result of follow-up inspection not being done in a timely manner.

Recommendation

Code officers should be reminded of the need to give proper follow up to code violation cases assigned to them, site inspections, preparing all required documentation, and timely referral to the Special Master when necessary.

Management's Response (Code)

Management agrees with this recommendation.

Case Management tracking will be automated with the implementation of the new enterprise permitting system. The system will have automatic schedules generated for the officers showing all of the compliance inspection due for the day and exception reporting for management when those inspections are not completed. In the meanwhile, Code Compliance has developed an initiative (case management initiative) to streamline and improve case management by code officers. This initiative includes developing methods to ensure quality control. Code officers have been reminded of the need to give proper follow up to code violations cases assigned to them, site inspections, preparing all required documentation and timely referral to Special Master when necessary.

4. Finding – *Processing of Cases by Clerical Staff*

From the sample described in finding number 3 above, we noted the following code enforcement cases were not timely processed by the Code Compliance's clerical staff.

- a. CE09009704: Fine has not been paid for failure to have garbage collection service. This and 8 other sanitation violations for this property (from 4/16/09 through 9/21/09) did not have City Bills prepared by clerical staff.
- b. CE09007421: City Bill is pending preparation for this violation cited on 6/4/09 that required immediate compliance and carried a fine of \$600. A Notice of City Code Violation was received by the responsible party and the code officer instructed to issue a City Bill since 10/8/09.
- c. CE09009314: Clerical staff took 3 months to prepare case file and no fine was assessed since case closed due to compliance before it was referred to Special Master for enforcement judgment.
- d. CE09005942: Clerical staff took 6 weeks to prepare case file and was sent to the Special Master 4 months after violation occurred.

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- e. CE09009454: Clerical staff took 2 months to prepare case file. Case documentation reflects that compliance did not occur within the required time, but as a consequence of the processing delay the property was re-inspected almost 2 months late and zoning violation had been corrected.
- f. CE09005708: Clerical staff took 3 months to prepare document case file.
- g. CE09007344: Clerical staff took 4 weeks to prepare case file.

Recommendation

Processing deadlines should be established for Code Compliance clerical staff to process the various aspects of code violation cases they are involved with in a timely manner including: preparation of case document files, submitting cases to the Special Master, and preparation of City Bills. Adherence to these processing dates should be monitored for effectiveness.

Management's Response (Code)

Management agrees with this recommendation.

Code is in process of reorganizing the clerical staff functions to provide for easier tracking and increased accountability. The responsibility to issue the City bills will be performed by the Administrative Services section of the Department and the appropriate number of clerical personnel to support that function will be transferred over.

All other clerical support responsibilities will be assign be function to increase accountability and deadlines for each clerical function and procedures to insure adherence to the processing dates will be implemented.

5. Finding – Processing of Cases by Code Compliance Personnel

From the sample described in finding number 3 above, we noted several deficiencies in the processing of code enforcement cases by Code Compliance personnel in general, which are detailed below:

- a. CE09006582: A sanitation violation notice was posted on the property for its 1st offense. The required certified letter was mailed, however a service date has not been obtained. This violation carries a \$200 fine, but no City Bill has been issued since the case needs another certified letter to be sent before the City Bill is prepared.
- b. CE09007953: Case took over a month to prepare by clerical staff, then there were delays with code officer and administrator. There was no follow-up for not receiving service date on certified letter and set up for Special Master has not been done.
- c. CE09001767: Both the Permits Plus system and Eden's City Bill module indicate that payment was received. However, case continues to show BILLOWE status in Permits Plus instead of BILLPAID.
- d. CE09003917: Case opened in error as a duplicate of CE09003915. However, it remained in OPEN status until we brought it to the attention of the Lead Administrator who changed it to VOID.
- e. CE09006183: A City Bill was prepared and paid before its due date. However, case shows status as CLOSED instead of BILLPAID.
- f. CE09008693: System records indicate that parking company no longer operates at the location where violation occurred, but case remains with OPEN status.

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- g. CE09000564: This case had a City Bill prepared on 1/13/09 for a \$125 fine. Eden's City Bill module shows it was paid on 3/19/09, but Permits Plus does not reflect a change in status to BILLPAID.
- h. CE09004490: Proper enforcement action appears to have been taken based on Permits Plus records. However, document file was never located for our review.

Recommendation

Code Compliance personnel need to be reminded of the proper enforcement of procedures, which involves all aspects of handling complaints and code violation cases. Including the preparation of all required documents; ensuring proper notification is received by the violator; and complete and accurate record keeping.

Management's Response (Code)

Management agrees with this recommendation.

Code compliance staff has been reminded of the importance of all aspects of handling complaints and code violation cases, including the preparation of all required documents, ensuring proper notifications is received by the violator, and complete and accurate record keeping.

- Code has implemented a new process for certified mail to expedite mailing and track for return receipt/legal service. (a,b)
- The process was changed so that when city bills are paid the status is billpaid instead of closed. (e)
- Case management initiative (d, f). Case Management tracking will be automated with the implementation of the new enterprise permitting system. The system will have automatic schedules generated for the officers showing all of the compliance inspection due for the day and exception reporting for management when those inspections are not completed. In the meanwhile, Code Compliance has developed an initiative (case management initiative) to streamline and improve case management by code officers. This initiative includes developing methods to ensure quality control. Code officers have been reminded of the need to give proper follow up to code violations cases assigned to them, site inspections, preparing all required documentation and timely referral to Special Master when necessary.
- Code will work with Finance to devise an improved mechanism to close the loop on paid city bills. (g, c)
- Code will evaluate and revise the office filing system. (h)

6. Finding – *Case Closing When City Bill is Prepared*

During our review of 50 code enforcement cases, we noted that Code Compliance personnel consistently entered "Complied by" and "Closed" dates in Permits Plus as if the case was resolved and fines collected when City Bills were prepared for these cases, although the status remained as BILLOWE. This was discussed with Lead Administrator who indicated that entering these dates is incorrect, since the case remains open and the bill is unpaid.

Recommendation

We recommend that cases with the status of BILLOWE be reviewed in Permits Plus and updated accordingly to reflect that the case is not closed until paid and compliance has been determined. All personnel should be reminded of the proper procedure when creating a City Bill to prevent recurrence.

Management's Response (Code)

Management partially agrees with this recommendation.

Management is of the opinion that open cases, are the ones where the division has an active role. Once compliance has been achieved, and a City bill has been created, the case should be designated as close and the status in Permit Plus will show as bill-owed.

7. Finding – Complaints Assigned to a Code Officer

In reviewing the entire database of XC complaints (3,464) for FY 2009 with a status of ASSIGNED (complaint routed to a code officer for inspection), we found approximately 40 that still remained with this status at the start of 2010, from 61 noted one month earlier. These complaints were added to Permits Plus from 3/24/09 through 9/30/09. The Lead Administrator indicated that complaints assigned to a code officer are to be answered by the officer within one to two weeks.

Recommendation

These complaints should be reviewed to determine if the type justifies an inspection at this time or whether they should be closed due to non-response by the assigned code officer. Additionally, code officers should be reminded of the established deadlines for answering their assigned complaints.

Management's Response (Code)

Management agrees with this recommendation.

- All XC with the status of ASSIGNED will be reviewed within 72 hours after assigned to officer to be consistent with city policy for email and phone response.
- Case management initiative. Case Management tracking will be automated with the implementation of the new enterprise permitting system. The system will have automatic schedules generated for the officers showing all of the compliance inspection due for the day and exception reporting for management when those inspections are not completed. In the meanwhile, Code Compliance has developed an initiative (case management initiative) to streamline and improve case management by code officers. This initiative includes developing methods to ensure quality control. Code officers have been reminded of the need to give proper follow up to code violations cases assigned to them, site inspections, preparing all required documentation and timely referral to Special Master when necessary.

8. Finding – Courtesy Notices Issued

At the start of 2010 we reviewed the entire database of XC complaints (status=NOTICE) created between 10/1/08 through 9/30/09. We found that 106 of these Courtesy Notices issued for violations resulting from inspections of reported complaints, observed during routine patrols, or scheduled inspections, remained with this status. Courtesy Notices are issued by the code officer with a time period to correct problems identified, usually no longer than 30 days. We reviewed 10 (10% of 106) of these complaints to determine the reasons for their current status and noted the following:

- a. Seven complaints (XC09000034, XC09000105, XC09000376, XC09000491, XC09000492, XC09000494 and XC09000502) showed a comply-by-date that has long expired, but no code enforcement case has been opened.
- b. Two complaints (XC09000009 and XC09000324) resulted in code enforcement cases (CE) that have been complied with.

- c. Complaint XC09000120 shows there is a compliance and a closing date.

We expanded our search to complaints prior to FY 2009 and found another 481 Courtesy Notices issued between 6/1/02 and 9/30/08 that also remain with this status.

Recommendation

XC complaints with status=NOTICE should be reviewed to determine whether an inspection is warranted at this time; if a code compliance case should be opened; and to update the status to reflect the current conditions.

Management's Response (Code)

Management agrees with this recommendation.

- All XC with status of NOTICE will be reviewed.
- Case management initiative. Case Management tracking will be automated with the implementation of the new enterprise permitting system. The system will have automatic schedules generated for the officers showing all of the compliance inspection due for the day and exception reporting for management when those inspections are not completed. In the meanwhile, Code Compliance has developed an initiative (case management initiative) to streamline and improve case management by code officers. This initiative includes developing methods to ensure quality control. Code officers have been reminded of the need to give proper follow up to code violations cases assigned to them, site inspections, preparing all required documentation and timely referral to Special Master when necessary.

9. Finding – Prior Years' Code Compliance Cases

A review of the entire database of code enforcement cases created prior to FY 2009 was performed as of 12/28/09 to determine if there were cases that had not been properly followed up and addressed by the Code Compliance Division. The following results were noted:

- a. (Status=OPEN) There are 680 cases with this status that were entered between 10/4/01 and 9/30/08. The number of cases and the time since their creation seems unreasonable. It should also be noted that we found an additional 1,200 open cases approximately for FY 2009.
- b. (Status=SMASSTER) We found 404 of these cases for prior years created between 11/8/01 and 9/30/08; these were in addition to 421 cases with this status for FY 2009. A review of the five oldest cases revealed the following:
1. CE02000890 was left unprocessed since violation was cited in 2001 and only referred to the Special Master in March 2009.
  2. CE02001287 had no follow-up by code officer after an initial extension for compliance until 3/31/02. Case was assigned SMASSTER status but never sent for a hearing.
  3. CE02004441 was assigned SMASSTER status but never sent for a hearing. Code officer did not perform follow-up after the case was issued. Subsequent to our referral to Lead Administrator, property has been re-inspected and violation no longer appears to exist.
  4. CE02003950 was dismissed by Special Master on 11/2/05, but never updated by code officer to reflect judgment; case closed by Lead Administrator during audit.
  5. CE02004456 was issued on 6/21/02 and sent to Special Master on 9/17/02, but was not dismissed until 8/29/09 and remains in the same status.

- c. (Status=BILLOWE) This represents cases where a City Bill was issued and remains unpaid. In addition to approximately 400 cases found for FY 2009, we identified 1,896 other cases created between 10/1/01 and 9/30/08 with this status. A sample of 30 cases selected for review revealed that the City Bills associated with five of these cases had been paid, but the status was not changed to properly reflect it.

Recommendation

A special review of code compliance cases reflecting the statuses noted above should be conducted to determine the proper status to be assigned. The OPEN and SMASTER status cases likely represent numerous cases that have not received proper follow-up to bring them to conclusion. BILLOWE status cases should be researched with the Finance Department to identify those where the City Bill has been paid and should be identified as such.

Management's Response (Code)

Management partially agrees with this recommendation. Management will review these cases and try to group them by age, status, and type to develop a systematic approach to deal with all of the open cases.

10. Finding –Code Compliance Cases with a Temporary Status

A review of code enforcement cases created before FY 2009 was also performed to identify any cases with a “temporary” status that remain in the system beyond a reasonable time period, indicating lack of proper follow up by Code Compliance personnel. The results detailed below were brought to the attention of the Lead Administrator, who indicated these cases should not have remained in their temporary status.

- a. (Status=BILLPEND) These represent cases pending the issuance of a City Bill by clerical staff. We found 18 cases between 12/28/02 and 12/3/06.
- b. (Status=XXXXXXXX) This temporary status is assigned when a case is opened (no real status yet) or the code officer has turned in a case for supervisor approval to send a violation notice by certified mail. In this case the status would be changed to WAITCERT when clerical staff processes the approved request. There were 20 cases entered between 1/18/08 and 8/25/08 with this status, in addition 58 cases were found in FY 2009.
- c. (Status=WAITCERT) This represents cases waiting for the return of the certified receipts from the Post Office indicating date received. We found 25 cases between 1/18/08 and 8/25/08, in addition to 17 cases for FY 2009.

Recommendation

A review of these cases should be promptly completed by the Code Compliance Division to ensure they are given proper follow-up to either prepare City Bills that are pending; mail out any required violation notices; or follow up on the cases where notices were already mailed.

Management's Response (Code)

Management disagrees with this recommendation. Management believes that all temporary status cases prior to 2010 should be deleted from the system, following the proper documentation and approval process, yet to be established.

The division's emphasis should be put in place the internal controls to prevent this from happening again in the future. The case management system previously described would assist in preventing cases not being follow-up.

Internal Audit Observation

While the division's disagrees with our specific recommendation, we concur with their response that their emphasis should be to implement controls to prevent any reoccurrence. When time permits, temporary status cases prior to 2010 should be removed from the system after some review process.

11. Finding – *Recorded Liens with Neighboring Counties not Placed for Overdue City Bill Payments*

During our review of the 50 code enforcement cases discussed earlier on this report, we noted that the Finance Department has not placed a recorded lien with neighboring counties for non-payment of City Bill #13703 issued on 9/17/09 for a \$50 fine due for case CE09007603. City Bill #12205 was also issued on the same property on 4/12/09 for \$1,639 on case CE08007610 due to a similar violation and remains unpaid with no similar recorded liens placed on the property.

The analyst who monitors accounts receivable and records property liens for overdue payments informed us that she begins the review process for the recording of a lien when the invoice (City Bill) is more than 120 days due. We reviewed all City Bills as of 12/16/09 resulting from code violation fines and found 1,241 invoices created between 8/3/06 and 9/30/09 that remain unpaid. Of these, 435 were created between 10/1/08 through 9/30/09 (our audit period) and remain unpaid between 125 and 432 days after they were issued. We selected a sample of 22 of these 435 City Bills for further review, finding only two recorded liens with counties that were placed for earlier code violations on the cited property, but not due to the City Bill being reviewed. For the remaining 20 City Bills, we were unable to identify any recorded liens being placed. In addition, the current procedure being used to document unpaid invoices does not include any type of cross-reference between the City Bill information and property liens placed.

Recommendation

A review of all unpaid City Bills should be performed, starting with those with a significant number of days past due to determine if liens can be placed. In addition, we recommend that record keeping for invoices and recorded liens are more complete, such as adding City Bill information to the Lien Log and documenting when a lien is recorded on Eden and Permits Plus systems.

Management's Response (Finance)

A lien against a customer's property is created automatically when a City bill is created. The moment a City bill is created and posted, should a customer order a lien search, whether it be through our on-line service or an official lien search, the invoice will appear as due to the City. This is automatically done through our various systems and databases. This is a feature which many title search companies often compliment the City for, as they regularly use this service for real estate closing transactions.

The Finance Department further creates recorded liens for City bills in the following Florida counties: Miami-Dade, Broward, Monroe, and Palm Beach. It is acknowledge that it would be a good thing if recorded liens were processed earlier, but the City dismantled the entire Lien Division which consisted of three staff members. The work of recording liens at the county level is now being done on a part-time basis by an employee whose primary function is as the Resort Tax analyst. If additional efforts are requested for filing recorded liens at the County level, additional employee resources are needed.

12. Finding – Policies and Procedures

Code Compliance Administration indicated that the policies and procedures established for the code enforcement function are outdated. In their place we were provided with PowerPoint presentation slides used for training Code Compliance personnel about the function and activities of the department. We were informed that some of the training modules require to be updated, which we noted during our review, since some did not include all the ordinances that currently require enforcement priority by the code officers. However, training modules and materials do not offer an effective replacement for departmental policies and procedures. In our opinion this is reflected in the weaknesses and deficiencies noted throughout this report regarding all code enforcement activities.

Recommendation

Policies and procedures should be updated to include all current code compliance and enforcement requirements to be followed by all the areas and functions of the Code Compliance Division.

Management's Response (Code)

Management agrees with this recommendation.

As we review all of the processes towards the implementation of the new enterprise permitting system, Code will update the policies and procedures manual.

13. Finding – Unnecessary Duplication of Progress Report Logging

Code violation case files include a progress report log completed by the code officer, clerical staff or Administrator as actions, instructions or comments are documented for the case. This report includes printed information such as violator's name and address, case #, officer's name, etc., in addition to the manually recorded information mentioned above. During our review of selected cases, we noted that most of the files had more than one progress report, where the same information is unnecessarily duplicated. This was brought to the attention of the Lead Administrator, who indicated that there was no need for the officer to maintain duplicate records of these entries.

Recommendation

The practice of duplicating case information recorded on the progress report log should be discontinued, to improve efficiency and streamline the functions performed by code officers and clerical staff.

Management's Response (Code)

Management agrees with this recommendation.

The case development process will be examined to eliminate the duplication in the report logging.

14. Finding – Review of Key Performance Indicators and Departmental Measures

The Code Compliance Division measures the efficient delivery of service requests regarding code enforcement by the violations reported through the City's web based eBetterPlace. Additional measures are captured through the Daily Tracking system used by code officers to document the inspections performed in response to service requests and other complaints received. Key performance indicators (KPI) and departmental measures regarding these

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issues are reported in the City's performance management software. We reviewed the basis for the four KPIs and seven selected departmental measures, and compared the reported amounts to the actual supporting documentation.

One newly added KPI - *% residents rating code/ordinance enforcement in neighborhoods as acceptable or about the right amounts* – contains the results of a resident survey, thus it was not reviewed. The other three KPIs are not being measured at this time by Code Compliance and had no data entered during FY 2009; these are identified on the City's Strategic Plan 2009 Update as being under development or TBD. Division Administration placed these on hold until proper capturing of data is in place with the new system that will replace Permits Plus.

A review of the departmental measures showed that descriptions used in City's performance management software do not properly reflect the information being reported, the source of the information, and/or the method of calculation that indicates how the measure statistics are derived at.

Departmental Measures	Period	Reported	Audited	Difference
Code Violations Reported through web based service requests system	Q4 FY09	340	341	-1
	YTD	1,113	1,135	-22
# days for departmental response to service requests	Sep 09	30	(1)	N/A
	YTD	31	(1)	N/A
Total # of service requests received	Q4 FY09	1,342	1,331	11
	YTD	5,854	5,788	66
# of service requests closed within 30 days	Sep 09	383	393	-10
	YTD	5,417	5,300	117
# of service requests received via Website	Sep 09	233	227	6
	YTD	2,569	2,557	12
# of inspections initiated per enforcement officer	Q4 FY09	290	290	0
	YTD	915	(1)	N/A
Average # of inspections conducted daily by code compliance officers	Sep 09	8	8	0
	YTD	9	(1)	N/A

(1) Unable to verify reported numbers, since supporting documentation was not available for review

After completing our review we determined the following assessment categories suitable for the measures tested for fiscal year 2009 as defined in Exhibit 1:

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Name of Measure	Finding(s) Noted	Assessment Category
KPI: % rates of voluntary compliance as a % of cases initiated	Not currently measured	Factors Prevented Certification
KPI: Average # of days from first inspection to voluntary compliance	Not currently measured	Factors Prevented Certification
KPI: Average # of days from initial complaint to compliance	Not currently measured	Factors Prevented Certification
Code Violations Reported through web based service requests system (BetterPlace)	Numbers reported include minor differences within tolerance factors	Certified with Qualifications
# days for departmental response to service requests	Description does not list data source and numbers reported represent average not totals and include Citywide depts. not Code Compliance alone. Supporting documentation was not available for review	Factors Prevented Certification
Total # of service requests received	Description does not list data source or reflect that numbers reported represent Citywide departments totals not Code Compliance alone. Numbers reported have differences but within tolerance factors	Certified with Qualifications
# of service requests closed within 30 days	Description does not list data source or reflect that numbers reported are Citywide dept. totals not Code Compliance alone. Support documentation was not available for review	Factors Prevented Certification
# of service requests received via Website	Does not reflect calculation methodology (numbers are the sum of the Website and Internet-Web totals), and include Citywide departments not Code Compliance alone.	Certified with Qualifications
# of inspections initiated per enforcement officer	Data source and calculation methodology are not listed on description	Certified with Qualifications
Average # of inspections conducted daily by code compliance officers	Does not list data source and calculation methodology, uses officer title inconsistently.	Certified with Qualifications

Recommendation(s)

The description field in these performance measures should be revised to more descriptive; include the calculation methodology for deriving at the statistics being reported; and the source of the data used in the calculations. For those KPIs not measured, a continuing effort should be made to develop the methodology of recording the needed information.

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Management's Response Code)

Management agrees with this recommendation.

The descriptions field in the performance measures was revised to be more descriptive and includes the methodology for deriving the statistics being reported and the source for the data used in the calculations.

The Division will work to establish a process to be able to measure all of the measures assigned to the division.

### **EXIT CONFERENCE**

An exit meeting was held on March 26, 2010 to discuss the audit report and solicit management responses noted above. Attendees were Alex Rey, Gregory Tindle, Carmen Olazabal, Jose Alberto, Barbara Hawayek, James Sutter and Luis López. A second exit meeting was held on May 19, 2010 to discuss matters requiring Finance Department's attention. Attendees were Alex Rey, Gregory Tindle, Georgie Echert, Manny Marquez, James Sutter and Luis López. All were in agreement with the contents of this report.

JJS:LL:ll

Audit performed by Luis López, Internal Audit Contractor

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cc: Alex Rey, Building Department Director  
Gregory Tindle, Code Compliance Director  
Patricia D. Walker, Chief Financial Officer  
Georgie Echert, Assistant Finance Director

**EXHIBIT: 1 – Assessment Categories for Performance Measures Verification**

Assessment Category	Criteria
<b>Certified</b>	If reported performance is 100% accurate and if it appears that controls are in place to ensure accuracy for collecting and reporting performance data. Measurement data is supported by source documents.
<b>Certified with Qualifications</b>	This category is assigned under either one of two conditions: 1. <i>Reported performance is within +/- 3%, but the controls over data collection and reporting are not adequate to ensure continued accuracy.</i> 2. <i>The department's calculation of actual performance deviates from the measure definition, but was still within an acceptable range.</i>
<b>Factors Prevented Certification</b>	Documentation is unavailable or incomplete and controls are not adequate to ensure accuracy. This category is also assigned when there is a deviation from the measure definition and the reviewer cannot determine the correct measure result.
<b>Inaccurate</b>	Actual performance is not within 3% of reported performance, or there is a greater than 5% error in the sample of documents tested.

**EXHIBIT: 2 - Additional References for Performance Management Software's Description of Measure**

- 1) **Measure Name:** Should list the name of the measure for which data is being collected and reported.
- 2) **Measure Type:** Should recognize whether the measure is an "Input", "Output", or "Outcome" measure. One must consider whether results are measured through input (Ex: Customer surveys), output (Ex: Number of contracts completed without change orders), or outcome (Ex: % of projects substantially completed or in beneficial use within 120 days).
- 3) **Measure Description:** Should describe the measure. Some measures are self explanatory and some may not; however, a description should always be included (Ex: The measure considers the % of change in the value of the change orders for a specific category divided by the original project cost).
- 4) **Measure Frequency:** Describes how often performance data is reported (Ex: Quarterly).
- 5) **Data Sources:** Should list sources used to collect performance data (Ex: System Software Names, Report Names, Schedules, etc.)
- 6) **Calculation Methodology:** Should explain how data reported was calculated (Ex: change orders for that quarter divided by the original total projects costs, projects substantially completed or in beneficial use within 120 days of the contract milestone date divided by the total number of projects completed during the same quarter).