

From: Eric Fraser
To: Rogers, Chris; Rogers, Natalie; Alvarez, Eddie; Fleming, Victoria; MacDonald, Dianna; Okreskie, Jeff; Stapp, Mark; _CityCouncilListPublic; CMOOffice; srpdinfo
Cc: michael.gennaco@oirgroup.com; stephen.connolly@oirgroup.com
Subject: [EXTERNAL] Agenda Item # 14.1 6/20/22 City Council: Code Enforcement Staff Should Be Included in Police Oversight Activities
Date: Monday, June 19, 2023 4:58:36 PM

Dear Mayor, City Council, City Manager, Police Chief, and concerned citizens,

As researchers of short-term rental policies in the City of Santa Rosa, we are alarmed and sickened by the abuses to the civil rights of residents and visitors to Santa Rosa by the Planning and Economic Development Department (PED), more specifically the Code Enforcement Division.

On October 13, 2021, by Urgency Ordinance, the City Council enacted a new section for the Santa Rosa City Code, Chapter 20-48 Short Term Rentals (STRs). This date is significant because it officially started a run of unprecedented civil rights and due process abuses by Code Enforcement, AND it is a marker for the abusive, the bad faith processes stewarded by PED to bring the ordinance to the dais originally as well as set the stage for further abuses by PED with a second Urgency Ordinance and more.

This message asks that Code Enforcement personnel, as well as PED and the Code Enforcement Division come under third-party oversight like what is required of the Santa Rosa Police Department (SRPD).

Code Enforcement officers are like police officers in many ways. First, they are all law enforcement officers. They must take an oath to serve, hold certifications to remain in their jobs, and frequently work side-by-side.

While the SRPD has third party oversight with public transparency, and a commitment to improvement because of the feedback from that oversight, PED/Code Enforcement does not.

At the May 24, 2022 City Council meeting, we (attempted) to request that the contract with OIS include PED/code enforcement, but our comments were censored by Mayor Chris Rogers at the time. Unfortunately, we can see many reasons in our research for why we were censored.

At the bottom of this message are our comments sent to the City Council right after we were censored.

Since then, our research regarding Code Enforcement corruption is producing proof from within the City's own responsive documents to our public records requests, along with interviews from impacted people, and other sources.

In May 2022, we detected a pattern of Code Enforcement abuse that elevated minor infractions like failing to register for a TOT certificate or permit, defective advertisements, and other trifling matters to be elevated to serious violations that, without due process, would double and triple in cost, not allow for appeals or hearings, possibly be forced into Franchise Tax Board (FTB) or third party collections through contract with Data Ticket, and subjected property owners to "shakedowns" by code enforcement and vexatious people working in coordination with PED and elected officials.

Also in 2022:

- Two pretextual police actions (coordinated with PED, City Manager's Office, and other City and County agencies) targeted STRs. One on Bridgewood and the other on Flintridge. Source documents are available in the City's Nextrequest public records request platform. 22-439 (Bridgewood) and 22-1056 (Flintridge). These pretextual police actions put many people at risk including neighbors, property owners, guests, and law enforcement. While these police actions did not result in any administrative citations for the impacted property owners related to the events, they obviously had negative financial impacts for the property owners and (perhaps not to the extent desired by the City's agents) and to the entire STR community.
- On or around October 16th, a Senior Code Enforcement Officer was arrested by SRPD for Attempted Extortion, apparently work-related. (See <https://www.patreon.com/posts/75493532>). While the City has promised a report out on this arrest, the status of the charges, and a review of code enforcement procedures, none has been forthcoming.
- Code Enforcement has been in disarray for quite some time with many employees coming and going, as well as using ex-City employees brought in for "temporary" assignments.
- As stated earlier, the STR community was reporting suspicious code enforcement actions against STRs wherein the Notice of Violation and/or the Administrative Citations were not sent out in a timely manner, sent to wrong addresses, or not sent at all. Many of the issues cited were fictitious. People receiving the notices were either allowed to have their code enforcement files closed informally, or apparently, depending on their racial or ethnic backgrounds – or if they did not had political influence - forced to pay unprecedented amounts to settle minor violations. Our Nextrequests 23-442 and 23-559 examine source information about PED and Code Enforcements handling of permit applications, and code enforcement complaints. In our worksheets comparing the information from 23-442 and 23-559, we see a pattern of code enforcement complaints quickly elevated to Administrative Citations that are then immediately logged on to a third-party processor called Data Ticket. Data Ticket has been a contractor with the City for almost 5 years, but it is only after the First STR Urgency Ordinance where we see a pattern of abuse – exclusively against STRs. Given that PED's staff reports gleefully wanted to portray STRs as scofflaws with negative impacts to the neighborhoods, purportedly for personal enrichments and political advantages, our research shows that for all of Santa Rosa's property owners, residents, and guests, it is government over-reach and corruption that must be feared the most.

We recognize that Nextrequest 23-442 has not been published for public viewing yet, but we bring it forward in our reports below. Below are links to our public-facing workbooks to show analysis conducted for our research, which is still underway. We are preparing our research to be used to illustrate defective STR regulations and government corruption to an international audience, including Federal and State government agencies tasked with the correction of local government misconduct.

Nextrequest 23-442: Our Google Sheet: Tab 1 The City's Responsive Report, Tab 2 isolates administrative citations, Tab 3 evaluates whether the property receiving a citation is in the STR permitting process or not. Note that several citations attributed to STR by City staff have no nexus with STR operations.

<https://docs.google.com/spreadsheets/d/1EdT74lFo6rH9QQ4yJRs1GB0Ncf57Rwy6lDwYwtbLU/edit?usp=sharing>

Nextrequest 23-559: Go to the original Nextrequest posting to see Data Ticket's contract. Our Google Sheet: Tab 1 the list of Citations handled by Data Ticket.

Tab 2 worksheet comparing collection value for citations handled by Data Ticket, including write-downs for voids, retractions, and reversals:

Line 438 shows pre-10/1/21 (**pre-STR Urgency Ordinance**) 72 cites with a total Citation value for the **4 years, 9 months** since Data Ticket contract start (total citation value of \$17,650 with markdowns totaling \$1,400 - ~8% failure - plus \$700 in overpayments).

Line 364 shows **non-STR Citation** value from **10/1/21 – 5/17/23** with 68 cites for a total claimed value of \$24,100 with markdowns of \$2,800 - ~11.6% failure - with no overpayments recorded. This includes administrative citations for troubled areas like Apple Valley, ongoing problems from commercial properties, residential junkyards, and continual nuisances. See Tab 4 also for a list of all code enforcement files opened.

Line 123 shows **STR Citation** value from **10/1/21 – 5/17/23** with 121 cites with a total claimed value of \$68,200 with markdowns of \$15,500 and no overpayments - ~ 22.7% failure - and counting since many more of these citations will be reversed or clawed back due to legal challenge.

Tab 3 is a worksheet in progress to show the extent of administrative citations voided before being entered into Data Tickets database.

Tab 4 shows ~2,180 (two thousand one hundred and eighty) code enforcement files opened for the entire City from 10/1/21 – 5/5/23, covering all complaint types. On page 5 of the 6/6/23 Staff Report for Agenda Item 16.1, Short-term Rental Ordinance Amendments (Hartman), the claim is made that Code Enforcement opened 295 code enforcement cases against STRs during this period. Complaints against STR were ~13.5% of all complaints, but ~64% of all administrative citations written. Yet, citations against STRs had a defective rate of almost 23% (and counting) – 2-3x times what is normal compared to non-STR citations. Complaints against STRs had an even higher rate of failure pre-citation (at the code enforcement file level) due to false complaints, vexatious complaints, and discovered Code Enforcement and PED retaliation. Yet, still no penalties exist against people (or City Staff) who make unfounded, false, or vexatious complaints.

This data shows that STRs were targeted by Code Enforcement, and now that Code Enforcement's unfair and illegal attack against STRs has come to light, this will be a very expensive misstep for the City as victims look to have their rights restored and financial damages recovered. This demands third party oversight – and we'll fight until that happens.

https://docs.google.com/spreadsheets/d/12VJlp_gu7btP5U2q0QwuG8gZHLw5dLoumOdHPXitmW4/edit?usp=sharing

Santa Rosa Nextrequest here: <https://cityofsantarosaca.nextrequest.com/> simply search by file number or topic to review the City's responsive documents.

Respectfully submitted (by throwing up a little in my mouth to see yet another element of government overreach and abuse by the City of Santa Rosa),

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to citycouncil

Tue, May 24, 2022, 6:19 PM

My comment was censored unfairly by the Mayor concerning oversight extending over code enforcement officers. We are seeing a fact pattern of erroneously issued citations, and widespread abuses of process that expose the City to legal penalties for violations of civil rights, and abuse property owners and their tenants.

This oversight should also extend to the Santa Rosa parking district that is observed to have (had?) policies and procedures that insult people's civil rights.

Here are my comments regarding the code enforcement abuses we are seeing:

Slide 5 and 6 of the presentation found at the 5/17 Economic Subcommittee meeting discusses code enforcement and shows 124 complaints. Our report from 5/16 assembled from public information shows 96 enforcement files, so I'm not sure why the discrepancies. When we analyzed the data from our report, we did find a couple properties with multiple complaints, but that doesn't account for the missing 28 files. Also, most of the property owners we contacted said they never received the complaint. (Staff's excuses for why this is doesn't jive with the information. Only two files (some with multiple complaints) regarded a breach of operation standards (estimated 4% - 4 complaints – had to do with operational violations like noise, parking, excessive occupancy – out of 100). These two properties have evidence provided by owners/managers that refutes the allegations.

We estimate the other 96% are divided between citations given to those in the permit process admitting that they had short term tenants prior to applying for a permit (~50), and ~46 who received a citation because an activist prepared a list of properties with defective advertisements and submitted it to enforcement. This also coincides with a list of about 40 properties whereby the complainer and staff apparently decided they need intense scrutiny - and extra-judicial processes - to deny their permit. We

are researching to see to what extent this list was formed by racial animus.

In addition to the civil rights violations, potential financial liability to the city, widespread pattern of abuses, overlap with policing activities (there is testimony that code enforcement has been a tool used by police to harass property owners and guests), and obvious policing powers, there is no reason why code enforcement should not be included in auditing and oversight.

Thank you for your time, and we will appreciate your response.

Eric Fraser
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