

Memorandum

To: Bert Robinson, Chair, Public Records Subcommittee

From: Lisa Herrick

Date: 1/10/2008

Re: Public Records and Code Enforcement

The following information responds to your questions.

- 1.) When a complaint is filed, what portion of the complaint is public? Please address:
- the name of the subject of the complaint, and other identifying information
 - the address where the violation occurred
 - the identity of the complainant (if that is kept confidential, is it routinely confidential, or only upon request?).
 - the substance of the complaint

In open cases, where Code Enforcement is actively investigating a complaint, the case number, name of the subject of the complaint, address of the property, and substance of the complaint is accessible at any time through the case search link on the Code Enforcement web page: www.sanjoseca.gov/codeEnforcement

The identity of the complainant is confidential and redacted from any documents unless the complainant agrees to disclose his or her identity or the document listing the complainant is subpoenaed through litigation.

- 2.) When an investigation is conducted, what portion of the investigation is public? Does the public nature of the investigation vary depending on whether it results in a finding of a violation? Would the investigative material be public while the investigation is underway, or only at the conclusion of the investigation (assuming it is ever public at all) ?

Most of the information in open case files is public, including the information listed in response to question no. 1 above, as well as notices of violation, compliance orders, warning notices, and other documents submitted to the Appeals Hearing Board (AHB) to support enforcement or documents submitted to Court for an inspection warrant or other legal action.

Investigative files (such as notes) and are not public until after the case has been closed. However, any information that concerns the complaining party's identity, information that

might give away "investigative techniques," and information protected by other exemptions (i.e. attorney-client communications) or the balancing test will be redacted.

The public nature of the investigation does not vary; the case may proceed through the administrative citation or administrative remedies process.

- 3.) When findings are reached and penalties are levied or not, what portion of the findings are public?

Findings by individual inspectors of code violations are detailed on compliance orders, administrative citations or other warning notices; these are public and are available upon request at any time. All findings of the Appeals Hearing Board and all penalties, etc, are public and are available upon request at any time after the hearing either through the tapes of the proceedings or through a request for the Board Resolutions.

- 4.) Are there any other pieces of information that are regularly kept confidential in the code enforcement process?

No.