



EL DORADO COUNTY GRAND JURY 2009-2010

FEE WAIVERS

Case No. GJ 09-019

REASON FOR REPORT

The Grand Jury became aware of significant issues regarding Board of Supervisors Policy B-2 and the fee waiver process (see attachment). There was concern over the potential for significant lost revenue to the County and the equity of notification to all applicants about the availability of fee waivers.

BACKGROUND

In November 1988, the Board of Supervisors (BOS) adopted Policy B-2 to allow for waiver of County fees, permit charges and other administrative costs. This was last revised in February 1989. Per Policy B-2, the Chief Administrative Officer (CAO) and BOS are authorized to grant fee waivers. Further investigation revealed there were significant issues relating to authority, management, lost revenue, and disclosure of the fee waiver process.

METHODOLOGY

The Grand Jury conducted interviews, requested available data and reviewed the BOS Policy B-2 in order to understand the criteria and process for obtaining fee waivers.

Interviews conducted:

- Director, Development Services Department
- Principal Administrative Analyst, Chief Administrative Office

Documents reviewed:

- Board of Supervisors Policy B-2 (11/2/09)
- Fee Waiver Reports from 2006-2009 provided by the Chief Administrative Office and Development Services Department
- Permit Application, Parts 1-3 (Form number PERMAPP6.FRM - 2/2001)
- Plan Review Submittal (no form number or date)

Websites reviewed:

- El Dorado County Board of Supervisors, Building Department and Planning Department links www.co.el-dorado.ca.us (11/09)

FINDINGS

In accordance with the California Penal Code §933 and §933.05, each numbered finding and recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court.

The 2009-2010 El Dorado County Grand Jury has arrived at the following findings:

1. Fee waivers, upon request, may be granted for building permits, encroachment permits, variances, zone reclassifications, administrative permits, and use permits.
2. The Development Services Department does not advise applicants about fee waivers unless requested.
3. The following fee waivers were granted:
 - a. \$101,410 in 2006
 - b. \$10,784 in 2007
 - c. \$26,336 in 2008
 - d. \$14,070 in 2009

These are exclusive of the special waivers granted for victims of the Angora Fire in South Lake Tahoe (\$735,870 from June 2006 to December 2008).

4. Policy B-2 grants authority to the CAO to receive requests for and to grant fee waivers. The criteria for fee waivers are vague and lacking in definition. This provides the CAO with unlimited latitude in granting fee waivers.

5. It is not sufficiently clear that fee waiver authority is limited to the CAO. It was noted that other agencies and departments are granting fee waivers. If the policy is being followed, only the CAO or BOS should be granting fee waivers.
6. All waivers are to be reported to the BOS. While there is indication that reports are made to the BOS, the specific justification for granting a waiver is not noted. The specific reason fees are waived is only included in the letter to the applicant after approval and not entered into the County's computer program for tracking.
7. There is no indication from the CAO's office in their report to the BOS of the identity of the initiating department(s).
8. Reports extracted from the County's computer program neither identify the reason nor which department(s) requested a fee waiver. Once approved, there is nothing in these reports to show what criteria is used to grant approval. Because there is not sufficient data that can be used for tracking purposes, the reports are limited in nature and meaningful information cannot be easily extracted.
9. The Permit Application, Parts 1-3, and Plan Review Submittal Forms given to applicants do not have a form number. The Plan Review Submittal Form also has no date of approval/revision noted.

RECOMMENDATIONS

1. The County should review and update its fee waiver policy to include:
 - a. A description of which fees may be waived and who has authority to grant fee waivers;
 - b. A list of clear, objective standards for fee waivers;
 - c. Documentation of specific reasons for granting fee waivers;
 - d. Clearly state that the general public is eligible;
 - e. Definitive guidelines to all applicants to include a statement that the general public is eligible for fee waivers.
2. Useful information should be easily retrievable from the appropriate County computer program. To that end, the information entered for each application should be consistent. It should include, at a minimum, who the initiating department is and specifically under which criteria outlined in the policy the waiver was approved and by whom.

3. All forms distributed to the public by Development Services Department should have a form number and date of approval/revision printed on all pages.

RESPONSES

Responses to both findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: FEE WAIVING	Policy Number B-2	Page Number: 1 of 3
	Date Adopted: 11/08/1988	Revised Date: 02/07/1989

Background:

In September 1981, the Board of Supervisors adopted policies and procedures regarding consideration of requests for waiver of County fees, permit charges, and other administrative costs. The policy is being amended at this time to give special consideration for emergency projects by local public agencies, and for life threatening fire safety needs being addressed for the public by private agencies. The Chief Administrative Officer is authorized to waive fees according to established procedure and report said waivers to the Board.

Policy:

1. County departments and offices shall charge all public agencies and non-profit organizations the same filing fees and other costs as those charged to private citizens, where those fees are levied to offset the County's costs to provide related services.
2. Fees may be waived for building permits, encroachment permits, variances, zone reclassifications, administrative permits, or use permits only if the Chief Administrative Officer makes any one of the affirmative findings as specified below:

The Chief Administrative Officer finds that --

- a. The levying of the fee in question would result in extreme financial hardship to the requesting entity;
- b. The applicant has been delayed due to actions taken by the County;
- c. A facility or project proposed by a non-profit corporation or special district will provide a substantial public benefit;



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- d. There is no actual cost to the County for the expense in question. For example, if the Building Department is required to inspect a structure, the fee related to providing this service will be levied. However, if inspection is not required, the fee may be waived;
 - e. The project is being carried out by a local public agency and is an emergency project;
 - f. The project is being carried out by a private agency primarily to address unresolved life threatening and/or fire safety issues for the public.
3. A fee for appeal of a decision of the approving authority may not be waived.

Procedure:

An entity applying for a fee waiver shall present a request in writing to the department head of the department that charges the fee in question. The request shall contain a description of the project in question along with a statement as to why the applicant believes the fee should be waived. The department head will review the request and present it to the Chief Administrative Officer. The Chief Administrative Officer will approve or disapprove the request for fee waiver in accordance with provisions set forth in this policy and report said waivers to the Board of Supervisors.

Primary Department: Chief Administrative Officer
Community Development
Department of Transportation



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BOARD OF SUPERVISORS POLICY

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References: None