



EL DORADO COUNTY GRAND JURY 2009-2010

GRADING AND ENCROACHMENT SECURITIES

Case No. GJ 09-030

REASON FOR REPORT

The El Dorado County Controller's Office received a request from the El Dorado County Development Services Department to expand the current use of the trust account Grading and Encroachment Securities. The expansion of this trust account would facilitate the collection of security deposits from South Lake Tahoe homeowners who have properties requiring compliance with specific Tahoe Regional Planning Agency (TRPA) water run-off regulations. Presently, Certificates of Deposit, savings passbooks and bonds are being held as security deposits pending final County inspection of properties. Many of these deposits are old, outdated and with the possibility of little value. The intent of the request for change was to convert to collection of cash deposits only, thus eliminating management and storage of non cash security deposits. Also envisioned was a charge of \$152 fee for the collection, administration and release of a security deposit.

Because of the foregoing, the Grand Jury investigated the procedure for collection and dispersal of security deposits from South Lake Tahoe homeowners who are attempting to meet TRPA regulations regarding water run-off from their property into the street and ultimately into the lake.

BACKGROUND

The Tahoe Regional Planning Agency (TRPA) is a joint agency between California and Nevada which was authorized in 1992 by the U.S. Congress. It is required by the Tahoe Regional Planning Compact to regulate activities within the Tahoe Basin which may have a substantial effect on the natural resources of the Basin. Its main mission is to preserve Lake Tahoe's water clarity. A requirement of TRPA is that all homeowners pave their driveways and maintain water run-off within the immediate property.

In a Memo of Understanding (MOU) dated 12/08/92, the County and TRPA entered into an agreement that the County shall review construction of new single and multiple family structures (four units or less) and additions/modifications to existing single and multiple family dwellings to be constructed within the County limits of El Dorado County. This review is to include all applicable TRPA regulations for residential construction projects subject to TRPA review.

The Development Services Department administers the program which includes the awarding of building permits. Security deposits are obtained to ensure compliance with regulations and final inspection of the property upon completion of the project. Approximately 150 new building permits are granted each year. Any modifications to existing structures must be approved if the roof line or structure base is altered. To assure appropriate containment of run-off water from properties, a security deposit is retained in the Grading and Encroachment Securities account until completion and inspection of the project.

In 1993, the County imposed an assessment on Lake Tahoe homeowners to assure TRPA regulations were met. The usual amount of the assessment is the estimated cost of completion of required work by a County approved contractor. It does not prevent the homeowner from performing the work himself or from obtaining another contractor as long as TRPA requirements are fulfilled.

After conclusion of the project the County should be notified for a final inspection. If the project meets all requirements, the security deposit should be returned to the project applicant.

METHODOLOGY

The Development Services Department provided the Grand Jury a status report of properties to be inspected in the Lake Tahoe Basin which contained some 520 line items of residential addresses. This document showed the source of security deposit, amounts deposited, and some had a project completion date noted. As of the writing of this report, there were 359 addresses open without a completion date. Fifty-five owners of these properties have requested inspections, which have not been completed by the County.

Interviews were conducted with the following:

- El Dorado County Auditor/Controller
- Director of Development Services Department
- Deputy Director of Development Services Department
- Deputy Director of Engineering, Department of Transportation
- Supervising Civil Engineer

Documents Reviewed:

- MOU dated Dec. 8, 1992, between Tahoe Regional Planning Agency and the County of El Dorado
- Memos between the County Auditor/Controller Office and the Development Services Department dated July 7, 2009, July 28, 2009, and Sept. 21, 2009.

FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding and recommendation will be responded to by the government entity to which it is addressed.

1. The County has been negligent in its duty and responsibility in administering the MOU between the County and TRPA.
2. The administration of the program has been lacking in several areas. Current inspections must be done on listed properties to determine the status of projects.
 - a. Awareness of completed/incomplete security deposits:
 - Projects may have been completed but owner did not request the security deposit;
 - The project may not have been completed;
 - The owner sold the property which required inspection and the present owner is not aware of the requirements.
 - b. Efficient management of the security deposit:
 - Many securities need review to determine the viability of the security deposit;
 - There may be legal complications concerning ownership of some deposits.
 - c. Timely inspection response:
 - There is one inspector assigned to the Lake Tahoe area. There are 359 addresses still open without a completion date.
 - d. Return of the security deposit:
 - At last review, 55 properties were awaiting final inspection and return of the security deposit.
3. The list of properties to be inspected has its own stand alone data base, and is not incorporated into the County's current financial management system.

4. The MOU has not been updated since 1992, and some provisions may be outdated.

RECOMMENDATIONS

1. The Development Services Department should develop and implement an action plan that would enable it to carry out its obligations under the MOU.
2. The Department Director should consult and work with Information Technology Systems to integrate the Department's stand alone data base system into the County's data base system.
3. The Department Director should integrate the financial aspects of the Department's program into the County's current financial management system.
4. The County Counsel's Office should review and amend the present MOU between the County and TRPA as necessary.
5. The Department Director should report to the County Administrative Officer to review progress on the conversion of the computer programs.

RESPONSES

Responses to both findings and recommendations in this report are required in accordance with California Penal §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.