

City of
Gainesville

Inter-Office Communication

April 4, 2011

TO: Audit, Finance and Legislative Committee
Mayor Craig Lowe, Chair
Mayor-Commissioner Pro Tem Jeanna Mastrodicasa, Member

FROM: Brent Godshalk, City Auditor

SUBJECT: Review of Landlord Permit Revenues

Recommendation

The Audit, Finance and Legislative Committee recommend the City Commission:

- 1) Accept the City Auditor's report and response from the City Manager, and
- 2) Instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

Explanation

In accordance with our Annual Audit Plan, the City Auditor's Office has completed a Review of Landlord Permit Revenues. The primary objective of this phase of our audit was to evaluate the system of management control over the billing and collection of landlord permit revenues. We previously issued an interim report related to driveway parking plans and departmental performance measurement data. During our review, we interviewed key personnel, analyzed operating data and evaluated management controls.

Based on the results of our review, we believe that opportunities exist for the Code Enforcement Division to strengthen the billing and collection process for landlord permits. Our report, which includes a response from the City Manager, is attached for your review. The report provides several recommendations related to reviewing options for collecting delinquent landlord non-compliance fees, developing a written procedures manual to document the landlord permit process, and utilizing the enhanced functionality of the Master Parcel System to better monitor trends and progress for landlord permit payments.

We request that the Committee recommend the City Commission accept our report and the City Manager's response. Also, in accordance with City Commission Resolution 970187, Section 10, Responsibilities for Follow-up on Audits, we request that the Committee recommend the City Commission instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

City of
Gainesville

Inter-Office Communication

March 17, 2011

TO: Russ Blackburn, City Manager
FROM: Brent Godshalk, City Auditor
SUBJECT: Review of Landlord Permit Revenues

In accordance with our Annual Audit Plan, the City Auditor's Office has completed a Review of Landlord Permit Revenues. During our review, we interviewed key personnel, analyzed operating data and evaluated management controls.

The primary objective of this phase of our audit was to evaluate the system of management control over the billing and collection of landlord permit revenues. We previously issued an interim report related to driveway parking plans and departmental performance measurement data.

Based on the results of this phase of our review, we believe that opportunities exist for the Code Enforcement Division to strengthen the billing and collection process for landlord permits. The attached draft report provides several recommendations related to reviewing options for collecting delinquent landlord non-compliance fees, developing a written procedures manual to document the landlord permit process, and utilizing the enhanced functionality of the Master Parcel System to better monitor trends and progress for landlord permit payments. Our recommendations for improvement were reviewed with Code Enforcement Manager Chris Cooper during our exit conference held on February 21st. Since that time, Chris has worked with Assistant City Auditor Michelle Torma to finalize any necessary edits to our report and to provide written management responses to our recommendations. I would like to acknowledge Chris and the members of the Code Enforcement Division for their cooperation during our review.

Please review the attached written report, which documents our audit recommendations and the responses from the Code Enforcement Division, and let me know if you have any questions, comments or concerns with the information presented. Our final report, including the management responses, will then be submitted to the City Commission's Audit, Finance and Legislative Committee for review and approval. The next meeting is currently scheduled for April 4, 2011. Until that time, this draft report and your draft response are exempt from Florida's public records law.

Thank you to you and your staff for making this a productive process.

cc: Fred Murry, Assistant City Manager
Chris Cooper, Code Enforcement Manager
Michelle Torma, Assistant City Auditor

OBJECTIVES, SCOPE AND METHODOLOGY

In accordance with our Annual Audit Plan, the City Auditor's Office completed a Review of Landlord Permit Revenues. We previously issued an interim report related to driveway parking plans and departmental performance measures. The primary objective of this phase of our review was to evaluate the system of management control over permits issued and revenues collected. Our procedures included identifying the total population of landlord permits billed and resulting fees collected during two fiscal years, selecting a sample of permits billed to ensure appropriate fees were paid and recorded in a timely manner, and evaluating the adequacy of documentation provided to support the discontinuance of previously issued landlord permits. The scope of our review was generally for landlord permits issued during fiscal years 2008 and 2009.

As for all of our audits, we conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Based on the results of our review, we believe that opportunities exist for the Code Enforcement Division to strengthen the billing and collection process for landlord permits. The attached draft report provides several recommendations related to reviewing options for collecting delinquent landlord non-compliance fees, developing a written procedures manual to document the landlord permit process, and utilizing the enhanced functionality of the Master Parcel System to better monitor trends and progress for landlord permit payments. Each of our recommendations has been discussed with management. These recommendations, as well as management's written response, can be found in the following sections of this report.

BACKGROUND INFORMATION

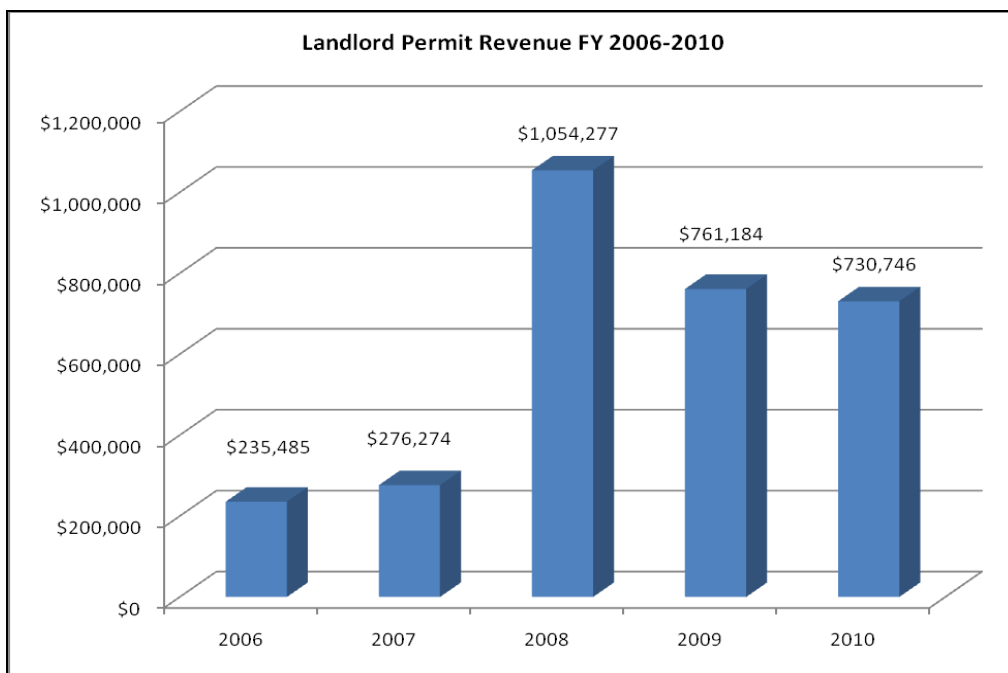
The Code Enforcement Division is responsible for a variety of code enforcement functions including: Housing and Commercial Buildings, Landlord License, Nuisance, Abandoned Vehicles on private property and Land Development. In an effort to meet these responsibilities, the Code Enforcement Division focuses on several objectives including:

- Providing code enforcement in recently annexed areas.
- Continuing to encourage community involvement by meeting with neighborhood organizations and working jointly with neighborhoods on code enforcement efforts.
- Using the civil citation system to expedite the enforcement process.
- Proactively enforcing housing standards through housing inspections and enforcement of landlord permit requirements, including the landlord point system.
- Coordinating with the General Government Budget and Finance Department on landlord permit applications and renewals.
- Enforcing yard-parking restrictions in the University Context Area and regulation of rental properties in all residential areas.
- Partnering with GPD's community-oriented policing, to continue neighborhood stabilization and revitalization in CDBG target areas and other neighborhoods.
- Continuing to publicize, through a range of media, efforts relating to code enforcement rules and processes, including outreach to potential landlords and tenants about single-family neighborhood codes.

The City’s Code of Ordinances requires owners of specified residential properties to purchase an annual landlord permit from the City Manager or designee “prior to allowing the occupancy of such unit by another natural person or other natural persons, unrelated to the owner.”

Code Enforcement Division staff utilizes information obtained from the Alachua County Property Appraiser’s Office and the City’s Master Parcel System to identify properties currently rented or potentially rented, as well as properties that have previously applied for landlord permits, when preparing applications and renewals.

Landlord permit renewals and applications are issued annually for the period of August 1 through July 31. If payment is not received upon the initial due date, late fees are applied up to 90 days. If a property owner returns the application or renewal indicating property is no longer rented, Code Enforcement Division staff verifies the information through a review of utility records and site visits. In 2010, there were approximately 3,700 landlord permits issued. The chart below illustrates landlord permit revenue the past five years.



Landlord permit fees increased beginning in fiscal year 2008 from \$80 to \$177. A five percent increase was approved for fiscal years 2009 and 2010. The significant revenue increase in 2008 is the result of the landlord permit renewal process moving from October 1 to August 1 to coincide with the university semester. This resulted in an artificial revenue increase because it encompassed two renewal cycles in the same fiscal year.

ISSUE #1

Improved Collection Process for Landlord Permit Non-Compliance Fines

Discussion

During our review, we tested the process for collecting delinquent landlord permits. City of Gainesville Code of Ordinance Sec 14.5-1(c) - *Payment; late payment* states:

The city shall bill each applicant or holder of a landlord permit for the annual fee, once the city manager or designee determines that all requirements for the permit have been met. If payment is not received on the due date, an extra fee shall be due and payable as specified in Appendix A. If payment is not received within the time frames specified in Appendix A, the city manager or designee may refer the account to a collection agency. If the collection agency does not collect the amount due within 90 days of the referral, or if the city manager or designee decides not to refer the account to a collection agency, the applicant or permit holder shall be subject to notice of citation for violation of this article and proceedings before the code enforcement board.

On August 19, 2010, the City Commission approved an ordinance modifying the late fee structure. The chart below includes the fees applied for landlord permits paid on time and up to 90 days past due.

Fee Structure for Landlord Permits

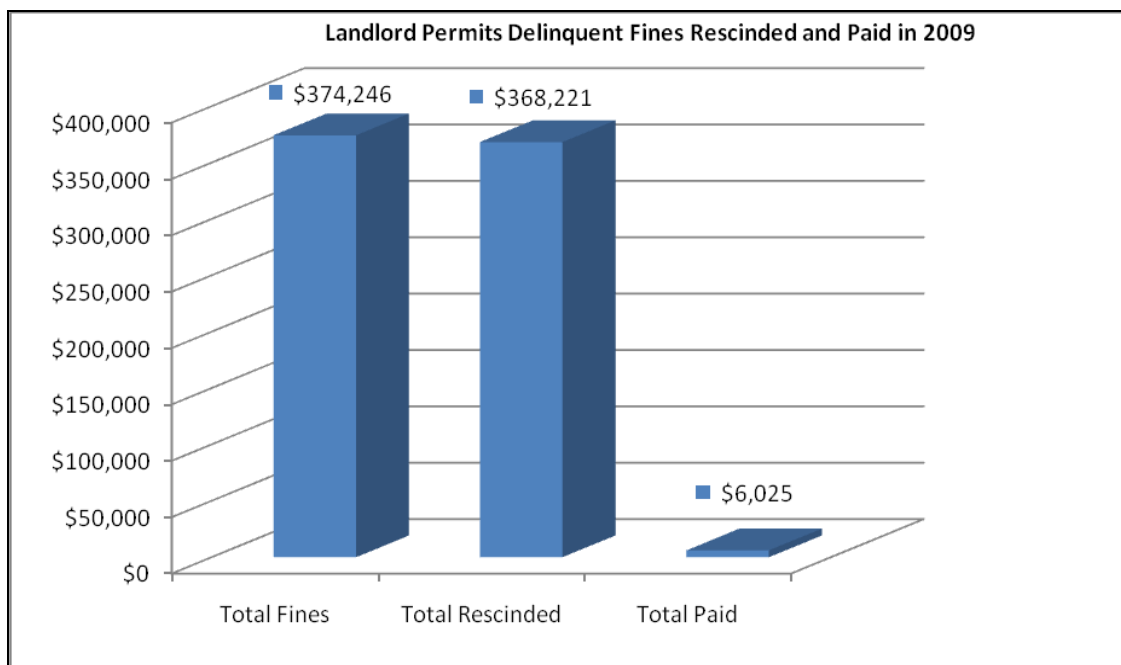
Days	Fee
Application received on time or renewal payment received on or before August 31	\$195
Application received 1 business day to 15 calendar days late or payment received after 10 business days but on or before 15 calendar days of city finding all other permit requirement met or renewal payment received after August 31 but on or before Sept 15	\$241.38
Application received 16 business day to 30 calendar days late or payment received after 15 business days but on or before 30 calendar days of city finding all other permit requirement met or renewal payment received after September 15 but on or before October 1	\$287.75
Application received 31 business day to 60 calendar days late or payment received after 30 business days but on or before 60 calendar days of city finding all other permit requirement met or renewal payment received after October 1 but on or before November 1	\$380.25
Application received 61 business day to 90 calendar days late or payment received after 60 business days but on or before 90 calendar days of city finding all other permit requirement met renewal payment received after November 1	\$473.00

Code Enforcement Division staff performs extensive research to verify a property is being rented, sends two reminder notices and a letter of delinquency to the property owner, conducts a site visit and attempts to contact the owner by telephone. In most cases, property owners pay the required landlord permit fees along with associated late charges. Those who do not come into compliance after this extensive investigative and notification process receive a Statement of Violation/Request for Hearing notice.

Although the Code allows for delinquent accounts to be referred to a collection agency after 90 days, the City does not utilize this option. Alternatively, the Code Enforcement Division sends delinquent landlord permit cases to the Code Enforcement Board, which has the authority to assess fines for non-compliance against the property owner. If the delinquency does move forward to the Code Enforcement Board, staff provides the Board with all supporting documentation, including affidavits from tenants and any contacts with the landlord. Based on evidence and testimony presented, the Code Enforcement Board determines whether the property owner is in non-compliance. If so, the Board issues an Order with a compliance date for delinquent fees to be paid. If the landlord does not comply, then a fine is assessed and accrues from the date of non-compliance as determined by the Code Enforcement Board.

The City's Code does not currently provide guidance on the level of fines or how these are calculated over time. As a result, past fines have been inconsistent, ranging anywhere from \$25 to \$1,000 a day. A lien is also placed on the property until all landlord permit fees and non-compliance fines are paid. Total landlord permit delinquent fines owed was more than \$800,000 at the end of our review.

Landlords who are assessed fines for noncompliance often request that the Code Enforcement Board consider rescinding the fine. In 2009, a total of 11 landlords requested the Code Enforcement Board to rescind the fines assessed against them. The cases involved dated back from 2000 to 2009 and totaled \$374,246 in total fines issued. One landlord in particular accumulated a fine of approximately \$301,700. The remaining 10 landlord's had accumulated fines ranging from approximately \$1,200 to \$14,000 each. In all 11 cases in which a landlord requested a fine to be rescinded, the Code Enforcement Board unanimously granted the landlord's request. The chart below indicates the total fines, total rescinded and total paid during 2009. The total non-compliance fines paid during 2009 amounted to less than 2% of total fines accumulated.



Non-compliance of landlord permits is one of the tasks assigned to the Code Enforcement Board. However, the Board also decides other issues, such as those pertaining to land usage and development. According to management, the Code Enforcement Board has indicated that landlord permit delinquencies is an administrative function and not one that should be brought before the Board.

Conclusion

Delinquent landlord permits are not consistently enforced by the Code Enforcement Board, resulting in inconsistencies in the application and accumulation of fines assessed. Additionally, outstanding delinquent fines assessed by the Board are often later rescinded, based upon a landlord's request, after extensive research and collection efforts are completed by Code Enforcement staff.

The Code Enforcement Division and City Attorney's Office are evaluating various options focused on increasing the consistency and effectiveness of the delinquency collection process as an alternative to submitting these violations to the Code Enforcement Board. Options being considered include developing a more consistent process that focuses on collection prior to any fines being assessed, as well as updating the City's Code of Ordinances to enable the City Attorney's Office to pursue judicial resolution of fines imposed through the small claims court process or a magistrate system.

Recommendation

We recommend the Code Enforcement Division continue to work with the City Attorney's Office to establish improved processes that will provide more reasonable assurance that fines assessed for delinquent landlord permits are consistently applied and collected.

Management's Response

The Code Enforcement Division in conjunction with the City Attorney's Office has been working to devise a plan to improve the efficiency of the current delinquent Landlord Permit fee collection process. Staff anticipates a plan will be developed within 60 days with implementation, including any necessary involvement of the City Commission, to follow.

ISSUE #2

Improved Documentation Regarding the Landlord Permit Billing and Collection Process

Discussion

City of Gainesville Code of Ordinance section 14.5-1(a) - *Application for permit; issuance of permit* states:

Every owner of a single-family dwelling, two-family dwelling, three-family dwelling, four-family dwelling, multiple-family dwelling, rooming house, dormitory or other dwelling unit within a district designated in section 30-57 of this Code is required to get an annual landlord permit from the city manager or designee prior to allowing the occupancy of such unit by another natural person or other natural persons, unrelated to the owner, whether or not for consideration, except as provided in subsection (b). In the case of multiple owners of any such dwelling unit, it shall be sufficient for any one of the owners to have obtained a permit on the unit. The application shall be in writing and on a form provided by the city. Such annual permit shall be valid from August 1 through July 31 of each year, unless revoked...

Section 30-57 of the Gainesville Code designates the following districts – RSF-1, RSF-2, RSF-3, RSF-4 and RC, as well as all properties zoned planned development falling below specified density limits.

To ensure landlords are aware of this ordinance and obtain a landlord permit, applications and renewals are mailed out annually. Prior to 2009, Code Enforcement Division staff only mailed new landlord applications and permits. The Budget and Finance Department was responsible for mailing the landlord permit renewal notices and collecting all payments. After a period of 90 days, Code Enforcement staff would run a landlord delinquency report and follow up on any unpaid renewals to ensure those properties were no longer rented.

Beginning with the 2009 landlord permit renewal process, Code Enforcement Division responsibilities expanded to prepare mailings for both the landlord permit application and renewal processes. This was done to provide sufficient lead time from the time initial mailings were sent to property owners and to make necessary adjustments for property ownership or mailing address changes prior to the initial due date. Code Enforcement staff established a process to ensure the total landlord renewals and applications mailed reconciled to the properties identified within the City's Master Parcel System for potential landlord licensing. The City also began accepting credit card payments for landlord permits during this transition.

The Budget and Finance Department continues to collect and record all payments through the City's Inovah system, which updates the Master Parcel System. Code Enforcement staff reviews on a daily basis landlord permit payments and prepares and mails certified permits to the landlords. If a landlord pays in person, Code Enforcement staff provides an uncertified permit to the landlord. The landlord is then required to provide the uncertified permit and payment to Budget and Finance Department staff, who then processes the payment and certifies the permit. Code Enforcement staff then reviews the Master Parcel System to ensure payment was made for the uncertified permit.

The Budget and Finance Department maintained written procedures documenting the landlord permit process. However, no written procedures have been developed by the Code Enforcement Division to document the processes required to meet their additional responsibilities regarding mailing applications and renewals, as well as reconciling the landlord application and renewal process.

Conclusion

While the Code Enforcement Division currently has experienced staff performing the landlord application and permit functions, we believe that written procedures would help to provide guidance for ensuring permit applications and renewals are properly accounted for, revenues are collected and recorded timely and accurately, and any applicable late fees are properly calculated and collected. Written procedures would also help to ensure continuity of the billing, collection, reconciliation and permit issuance process in the event of staff turnover.

Recommendation

We recommend the Code Enforcement Division develop standard procedures regarding mailing, collecting and reconciling landlord permit applications and renewals. Procedures, at a minimum, should include the processes for:

- Printing and mailing landlord permit applications and renewals
- Reconciling payment fees and mailing certified permits
- Ensuring late payment fees are properly applied
- Reconciling payment activity to the Master Parcel System
- Maintaining updated monthly landlord delinquency reports
- Preparing monthly trend analyses of landlord delinquency in order to monitor progress, note potential reporting anomalies or significant changes from previous data
- Documenting supervisory reviews of landlord delinquency reports

Management's Response

The Code Enforcement Division has a Standard Operating Procedure (SOP) for the Landlord Permit program which will be revised and updated to meet the Auditor's recommendation. Implementation of the updated SOP will be achieved within 90 days.

ISSUE #3

Improved Functionality of Landlord Delinquency Report

Discussion

During our testing, we noted that a report entitled “Landlord Delinquency Report,” which was generated from data maintained within the City’s Master Parcel System and used by the Code Enforcement Division to document their follow up on the status of delinquent landlord permits, had limited functionality. The report was unable to capture data at a specific date and, as a result, was manually updated as work was performed and issues resolved. Therefore, it was not possible, unless the report was run weekly or monthly, to obtain any trend analysis or effectively monitor progress made in a given time period.

Since our initial testing, the Information Technology Department has worked on updating the Master Parcel System software to enable users to enter data at a specific date. This enhanced feature is expected to be available in February 2011 and should provide management with tools necessary to more effectively document trends and monitor progress made in the delinquent landlord permit collection process.

Conclusion

The Code Enforcement Division was unable to use the “Landlord Delinquent Report” effectively to monitor collection activity since the program software lacked the functionality to enter data for a specific date.

Recommendation

We recommend that this enhanced feature within the Master Parcel System, once operational, be utilized by the Code Enforcement Division, to more effectively document trends and monitor progress made in the delinquent landlord permit collection process.

Management’s Response

The Information Technology Department has completed the task outlined in the issue brief. Code Enforcement Division staff will begin utilizing the enhanced feature within the Master Parcel System immediately.