

To: Dan Niziolek, Chair of Public Safety and Regulatory Services Committee, and Committee Members

From: JoAnn Velde, Deputy Director, Housing Inspection Services

Subject: Report on the Administrative Adjudication implementation project for Housing Inspections, including a request for approval of the fine schedule.

Date: January 2, 2004

History: The ordinance authorizing the use of the administrative adjudication process was passed by the City Council in September of 2001. The Department of Licenses and Consumer Services received approval to initiate a pilot project and began using the administrative citations in May of 2002. The Police License Division began using the administrative adjudication process in 2003. Most recently the Police 1st Pct. started a pilot project to use administrative citations for street crimes such as public urination, possession of drug paraphernalia, etc. The administrative adjudication process in Regulatory Services is supported by the existing software database known as KIVA. The City Attorneys office prepared an RFP to certify hearing officers, and a hearing procedure manual was prepared. While developing and preparing the system for use in the Inspections Division, one significant enhancement to the process was made which was the electronic citation. The electronic citations are generated by the KIVA system and they allow for a uniform and professional appearance, electronic storage and retrieval, and eliminate the need for traditional paper ticket books.

Implementation:

Currently, the Inspections Division uses Hennepin County district court to adjudicate outstanding housing code violations. It is planned that complicated and/or severe cases will continue to be prosecuted at that level, however, most routine cases will be handled with administrative citations. In implementing this program we want to be careful to ensure that property owners be fully informed and understand this new process. An informational brochure has been prepared and will accompany all citations that are issued. We have also established “rules for use” which among other things mandates that written violation notices be sent prior to citation issuance except in cases of serious endangerment, etc. The rules for use are as follows:

1. Administrative citations may be used in place of a summons for routine housing code violations.
2. Administrative citations may only be used when adequate notice has been given to the responsible party, and when a reasonable time has been given to correct the violation.
3. Effective evidence of the violation and notice must be available in the event of an appeal.

4. Administrative citations should not be used for serious violations, tenant violations, graffiti cases, or be issued to persons who may be considered in a vulnerable or disabled state. Summons should be used in those cases.
5. Administrative citations should not be used in cases where routine nuisance abatement programs can resolve the violation. Administrative citations may be used in cases of chronic nuisance abatement violations.
6. Once an administrative citation has been issued a Supervisor may reduce or waive the fine, and/or dismiss the citation for good cause. Such action must be recorded on the action screen of the KIVA RFS system.

Fine Schedule:

Several data sources were reviewed while establishing a recommended fine schedule for housing code violations. We surveyed the administrative fine schedules of several cities locally and also on a national level. District court fines recently levied in housing code violations cases were also reviewed. The standard fine levied by Hennepin County District Court is \$300.00 with the majority of that fine stayed for a period of one year if there are no same or similar violations. Commonly the actual cash fine is \$50.00. Local cities that use administrative adjudication for housing code type violations have fines ranging from \$50.00 to \$500.00. Mounds View and New Brighton both use administrative citations and the fine for Housing code violations is \$100.00. Fergus Falls has a range of fines from \$25.00 to 200.00. Santa Monica, California uses administrative citations and they're basic fine for a residential nuisance violation is \$250.00. Bloomington, Minnesota currently employs an extensive administrative adjudication program and uses the following fine schedule for housing code violations

Minor housing violation	\$200.00
Major housing violation	\$500.00
Fail to maintain multi-unit bldg.	\$350.00
Rental of dwelling w/o license	\$250.00
Unregistered multi-unit bldg.	\$500.00

We recommend that Minneapolis housing code violations be subject to a basic fine of \$200.00. It is further recommended that this fine be doubled for repeat and/or continuing violations up to a maximum fine of \$2000.00. This fine is meant to be a penalty to discourage future violations. With diminishing staffing levels it is imperative that our enforcement measures have a greater impact on code violators.

Conclusions:

In the License and Consumer Services Department the administrative adjudication process has been found to be an effective tool. It allows for an efficient use of precious staff resources, it gives us a more timely violation abatement, and the fine revenues are directed to the City's general fund, and does not have to be shared with the district court. The impact of getting a citation with a significant penalty will reduce repeat violations. Any unpaid fines will be assessed

upon the land where the violation occurred, and collection of fines will be automated for highest efficiency.

Recommendation:

1. That the Inspection Division, Housing Inspection Services be authorized to use the process of administrative adjudication.
2. That the fine for basic housing code violations be established at \$200.00.
3. That a second or subsequent violation of the same type, by the same person or entity, in a 12 month period of time shall be subject to a fine that is double the amount of the fine imposed for previous violations, up to a maximum of \$2000.00.