



June 11, 2018
The Honorable Chad Mayes
Member of the Assembly
State Capitol
Sacramento, CA 95814

Dear Assembly Member Mayes:

The California Association of Code Enforcement Officers and the League of California Cities regret that we must strongly oppose your Assembly Bill 2495 as amended June 7, 2018. As drafted, the bill will undermine the ability of cities to recover appropriate local costs when they expend resources to protect their citizens from slumlords and others who refuse to address code violations. Moreover, it is further regretful that we must oppose this measure after our prior submittal of the good-faith amendments (attached) which responded directly to the due process concerns that caused you to introduce the bill.

Our organizations recognize that important enforcement tools must be accompanied by appropriate notice and due process provisions which are embodied in the proposed amendments to Assembly Bill 2495 that we submitted to your office. We have enclosed those proposed amendments once again to this letter. Adoption of those amendments will cause our organizations to remove their opposition to AB 2495.

Cities all over California often compel slumlords and others to comply with health and safety laws via criminal nuisance abatement to protect occupants, neighbors and the community. While cities can instead use a civil lawsuit to force compliance, civil cases are exponentially more expensive for cities and violators alike, can take years to complete, and are less effective. A city is unlikely, if ever, to use this tool to compel compliance with isolated violations (viewed perhaps incorrectly) as “more minor violations”, such as mold, lead, water leaks, rodent or bed bug infestations, and other substandard housing issues.

As our attached amendments clarify, the use of cost recovery for criminal prosecution must be retained as a local tool when violators refuse to respond. When prior notices and other efforts to get voluntary compliance fail, a city’s most effective and quickest tool to gain compliance and protect occupants is criminal prosecution. The city’s goal is compliance, not punishment or jail time (which is very unlikely anyway), but the criminal process is much quicker and the tools more effective to gain compliance than any other court tool for these types of violations.

Many cities lack the resources to compel abatement from violators, even in very dangerous situations, unless they can offset some of their staff costs and attorney fees if they succeed. City

budgets are limited, especially in recessions, and without the possibility of cost recovery, cannot and will not enforce important housing and other laws, at least as much as they otherwise would. Criminal enforcement can be necessary when seeking to compel compliance from recalcitrant and property owners who can delay, dodge and use their resources to drive up costs to the city.

The amendments that we have submitted to your office provide for all procedural safeguards to address the alleged “abuses” giving rise to the introduction of AB 2495, and can only be used when the violator has ignored notices and been provided a reasonable opportunity to correct the violation. The outright abolition of the cost recovery tool, however, contemplated by the June 7 amendments to AB 2495, will simply empower those who arrogantly place residents of our cities at risk.

Sincerely,



John Lovell
Legislative Advocate
California Association of Code Enforcement Officers



Dan Carrigg
Deputy Executive Director/Legislative Director
League of California Cities

CC: Chair and Members, Senate Public Safety Committee
Mary Kennedy, Chief Counsel, Senate Committee on Public Safety
Eric Csizmar, Republican Counsel, Senate Committee on Public Safety

Attachment

AB 2495 (Mayes)

League of California Cities and California Association of Code Enforcement Officers, Proposed Amendment. AB 2495 (Mayes)

688.5.

A city, county, or city and county, including an attorney acting on behalf of a city, county, or city and county, shall not charge a defendant for the costs of investigation, prosecution, or appeal in a criminal case, including, but not limited to, a criminal violation of a local ordinance, unless all of the following conditions apply:

- 1) The city, county or city and county has provided the prospective defendant with notice either in person or by certified mail and a reasonable period sufficient to correct the violation. If the prospective defendant cannot be located, then posting the notice at a conspicuous place on the property shall be deemed sufficient. The notice provided shall describe any local applicable cost-recovery policies that apply if the identified violation is not corrected within the reasonable period provided in the notice and the matter is later pursued by the local agency as a criminal case.
- 2) No cost recovery shall apply and all local enforcement actions pertaining to that specific violation shall be deemed concluded if the prospective defendant has corrected the identified violation within the reasonable period provided in the notice. The local agency may, upon request of the prospective defendant, grant an extension to the period to correct the violation if it is determined that good-faith efforts to correct the violation have commenced and additional time to complete the work is necessary.
- 3) If the prosecution of the criminal case is pursued by the local agency for an uncorrected violation, the Court shall consider whether the defendant has been provided notice and a reasonable opportunity to correct the violation prior to the commencement of the criminal action. The defendant shall be provided, at the time of sentencing or settlement of the criminal case or within 10 days by certified mail, a full accounting of all costs to be recovered.
- 4) The defendant retains the right to appeal the cost recovery amount to a local neutral hearing officer or other appeals process as provided by local ordinance and the local legislative body.