August 22, 1997

GIL KELLEY, Director of Planning and Development

MANUELA ALBUQUERQUE, City Attorney
By: ZACH COWAN, Assistant City Attorney

BILLING AND COLLECTION ISSUES RELATING TO PAST DUE HOUSING INSPECTION FEES

This is in response to your memorandum dated August 20, 1997, a copy of which is attached.

ISSUES

1. Is there a statute of limitations for collecting housing inspection fees?

2. May the City request payment of the fees after the statute of limitations expires?

3. May the City impose a lien on properties due to the owner's failure to pay housing inspection fees?

4. May the City collect housing inspection fees from subsequent owners of affected property?

ANSWERS

1. The statute of limitations is three years from the date of delinquency. (Code Civ.Proc. _338(a)._)

2. The City may request payment of delinquent fees, but after the expiration of the statute of limitations, may not take any legal action to collect them. Accordingly, there is no utility to continuing to request payment of fees from property owners who have been refusing to pay them for at least three years.

3. As this office has advised the Current Planning and Building and Safety Divisions on numerous occasions (including recently), the City may not impose liens for failure to pay housing inspection fees because no ordinance so authorizes. (63 Ops.Atty.Gen. 905, 911-913.) As we have also previously advised on a number of occasions, such an ordinance could be drafted, however.

4. The nature of a personal obligation, as you have correctly characterized housing inspection fees, is that it is personal. This means that it does not run against the property, and may not be collected from third parties, whether they purchase property owned by the personal obligee or not.
Respectfully submitted,

MANUELA ALBUQUERQUE
City Attorney

By: ZACH COWAN
Assistant City Attorney

ZC:pab

Attachment

cc: City Clerk
    Director of Planning and Development

Index: V.B.7; VII.B.6