



CITY OF STOCKTON

OFFICE OF THE CITY MANAGER

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September 1, 2014

Presiding Judge
 San Joaquin Superior Court
 222 East Weber Avenue
 Stockton, CA 95202

CITY OF STOCKTON RESPONSE 2014-15 CASE NO. 1410 – CHARITY BEGINS AT HOME – UNATTENDED FOR-PROFIT DONATION BINS PROLIFERATE ACROSS COUNTY

The City of Stockton recognizes that there are community impacts related to unattended donation bins. The City has received and addressed numerous code enforcement complaints related to donation bins. The City agrees that a review of existing regulations is in order. However, it is important to note that while additional regulations may clarify responsibilities and provide tools for addressing unwanted donation bins, that there are a number of competing rights and interests to be considered in regulating the placement and removal of donation bins on private property. Furthermore, it is worth noting that increased regulation alone may not resolve all issues with unattended donation bins, particularly as the City is faced with competing public safety priorities.

In accordance with Sections 933 and 933.05 of the California Penal Code, the City Council of the City of Stockton offers responses to the Grand Jury Report on the above-referenced case as follows:

FINDINGS & RECOMMENDATION

F 1.1 San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

Response: *The respondent partially agrees with this finding. The City agrees that there are not land-use regulations that address unattended donation bins as a stand-alone topic. However, as mentioned in the Grand Jury report, Title 16 - Development Code, of the Stockton Municipal Code addresses recycling facilities and includes drop-off locations within the definition of recycling collection facilities. In recent history, staff has interpreted this definition to include unattended drop-off locations, including unattended donation bins. As such, unattended drop-off locations are subject to Land Development Permit requirements under this section of the Development Code. The City agrees that monitoring and*

enforcement of these regulations is a challenge given competing priorities for land-use and code enforcement staff.

- F 1.2 City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

Response: *The respondent partially agrees with this finding. More specific land-use regulations can help to clarify responsibilities related to removing unwanted donation bins. However, ultimate liability for removal of bins remains with property owners. While regulations can require removal of bins by the bin owners and outline enforcement consequences, if donation bin owners fail to comply, property owners are burdened with pursuing enforcement and may bear the burden for ultimately removing the bins. The City of Stockton is supportive of clarifying responsibilities and providing tolls for property owners; however it is also important to recognize that additional regulations will not simply resolve all instances where property owners are faced with challenges in removing unwanted donations bins.*

- F 1.3 Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

Response: *The respondent partially agrees with this finding. Again, the City of Stockton is supportive of regulations that provide further clarity of responsibilities and provide tools to property owners for addressing unattended donation bins. Legal, authorized donation bin placement can be regulated and lead to routine enforcement for authorized bins. However, regardless of the regulations in place, unauthorized bin placement is likely to continue to pose enforcement challenges for the City, whether bins are placed illegally or simply placed without knowledge of existing regulations. The City of Stockton regularly responds to code enforcement complaints related to donation bins, works with property owners related to bins at their locations, and regularly removes bins found in the public right-of-way.*

- F 1.4 Donations to out-of-state for profit operators divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

Response: *The respondent has insufficient information to respond to this finding. The City of Stockton regulates donation bins from the perspective of land-use and quality of life related to blight. The City of Stockton does not regulate donation bins based on the operation of the donation bin owners.*

R 1 By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- Shall require written consent from property owners before placement of any donation bin on private property
- Shall obligate the bin owner to maintain it
- Shall obligate the bin owner to hold property owners and their agents harmless from
- liability who remove unwanted bins from their property
- Shall require donation bins meet or exceed the requirements found in the California
- Welfare and Institutions Code, §§150 to 153
- Shall adopt sanctions for any violations of the ordinance provisions
- Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts

Response: *The respondent partially agrees with this recommendation. The City of Stockton agrees that a review of current regulations is merited, with the objective of developing more specific regulations for addressing challenges that arise from unattended donation bins. City staff will conduct this review by December 31, 2015, including a review of similar regulations from benchmark cities, and prepare a recommendation for the City Council. However, the recommendation is very prescriptive and includes detailed code requirements that may not be best suited or tailored to the specific circumstances in Stockton. The City will take into account and review each of the specific recommendations outlined above, but reserves the right to design and adopt those specific regulations that are most appropriate for our community.*

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