

CITY OF PHILADELPHIA PENNSYLVANIA

OFFICE OF THE CONTROLLER

Promoting honest, efficient, and fully accountable government

OFFICE OF ADMINISTRATIVE REVIEW

FOLLOW-UP REVIEW OF ENFORCEMENT & COLLECTIONS

DECEMBER 2011



City Controller
ALAN BUTKOVITZ



CITY OF PHILADELPHIA

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ALAN BUTKOVITZ
City Controller

January 9, 2012

Rob Dubow, Finance Director
Office of the Director of Finance
1401 John F. Kennedy Boulevard
Municipal Services Building, 13th Floor
Philadelphia, PA 19102

Dear Mr. Dubow:

We have conducted a follow-up review of the Office of Administrative Review's Enforcement and Collection procedures. A synopsis of the results of our work is provided in the executive summary to the report. The review was based on the updated data for revenue collections and ticket issuance provided by the staff at the Office of Administrative Review.

We discussed our findings and recommendations with your staff at an exit conference and included in your staff's written response to our comments as part of the report. Our recommendations have been included in the report and we believe that if implemented by management, these recommendations will improve enforcement actions and increase collections.

We would like to express our thanks to you and your staff for the courtesy and cooperation displayed toward us during the conduct of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Butkovitz".

Alan Butkovitz

cc: Honorable Michael A. Nutter, Mayor
Honorable Darrell Clarke, President
And Honorable Members of City Council
Paula Weiss, Executive Director



OFFICE OF ADMINISTRATIVE REVIEW

Follow-Up Review of Enforcement & Collections

EXECUTIVE SUMMARY

Why the Controller's Office Conducted the Review

Pursuant to the requirements of Section 6-400 (c) and (d) of the Philadelphia Home Rule Charter, the Controller's Office performed a follow-up examination on the financial reporting and accounting methods used by the Office of Administrative Review, Finance Department on litter and burglar alarm fines. In pursuit of additional revenue sources, the Controller's Office evaluated the revenue collection processes and related delinquent collection efforts of the Office of Administrative Review, Finance Department.

The focus of our examination was limited to determining the impact of recent changes including increases in fine amounts that were imposed by City Council and the addition of new citations.

What the Controller's Office Found

By comparing the current amount of accounts receivable dollars for false alarm and litter violations to the owed amounts included in the Controller's previous report in 2008, the Controller's Office found the following:

- Outstanding balances owed for all violations increased to \$70.2 million, an increase of \$19.4 million over the last two years.
- The amount of receivables less than three years old has increased 31 percent from \$19.5 million in FY08 to \$25.6 million in FY10.
- Total tickets issued in FY10 were 122,404, which is a 24 percent decrease from the total amount of tickets issued in FY09.
- Total amount collected for all fines and fees in FY10 was \$8.5 million, which is an increase of almost \$2.7 million since the Controller's previous FY08 report. This is mainly due to an increase in these fines and fees over this same period.

What the Controller's Office Recommends

The Controller's Office has included recommendations at the end of this report and urges OAR and Finance Department management to ensure that these recommendations be reviewed and expeditiously implemented.

Office of Administrative Review, Finance Department
Receivables – Delinquent Accounts Review

Follow-up Report

Overview:

The Office of Administrative Review (OAR), Finance Department, is responsible for the resolution of registration fees and resolving fines issued for false alarm and litter violations. In pursuit of additional revenue sources and collection improvements, the Controller's Office conducted a follow-up review of its 2008 report of the revenue collection process and related delinquent collection efforts of the OAR. This review was conducted to assess the City's collection efforts over a two-year period as well as to review balances for owed monies to the City.

Since the release of the Controller's previous report, the City increased its alarm registration fee as well as the fine amounts for some of the litter violations. According to City Council, the purpose for increasing the dumpster fee was to improve the City's reputation, especially in Center City, for being overrun with graffiti covered, over-flowing dumpsters. Increasing the amounts was also a means to increase revenue for the City, which had started to realize the financial strain caused by the Great Recession.

Five of the six categories of fines and fees realized at least a 100 percent increase. Some of these increases since 2008 included a 500 percent spike for littering and a 100 percent increase for the dumpster license fee. The chart below includes the fines and fees that have increased since the Controller issued the 2008 report:

Fine/Fee	Old Amount	New Amount	% Change	Effective Date
Annual Alarm Fee	\$35	\$50	43%	January 2009
False Alarm Fine	\$25	\$75	200%	January 2009
Haulers	\$75	\$150	100%	July 2010
Littering	\$25	\$150	500%	August 2008
Trash Set Out	\$25	\$50	100%	July 2009
Dumpster	\$25	\$50	100%	July 2009

The City increased many of its fines and fees to generate more revenues as well as to deter these incidents from occurring, but it must still implement aggressive collection efforts to realize any significant results. When the responsible Departments hinder both the enforcement and collection efforts, they put the City in a position that can reduce quality of life and create an environment where residents and businesses consider it acceptable to avoid paying owed monies.

The Controller’s Findings:

With the amounts for fines and fees significantly increasing over the last two years, the total amount owed for these violations has also increased by 38 percent during this same time period. As part of the follow-up, the Controller’s Office requested from OAR a copy of the aging receivables owed to the City. In examining the amounts provided by OAR, the Controller’s Office found the following:

- As of the end of FY10, a total of \$70.2 million was owed to the City, compared to \$50.8 million from the Controller’s 2008 report.
- The amount of receivables less than three years old has increased 31 percent from \$19.5 million in FY08 to \$25.6 million in FY10.

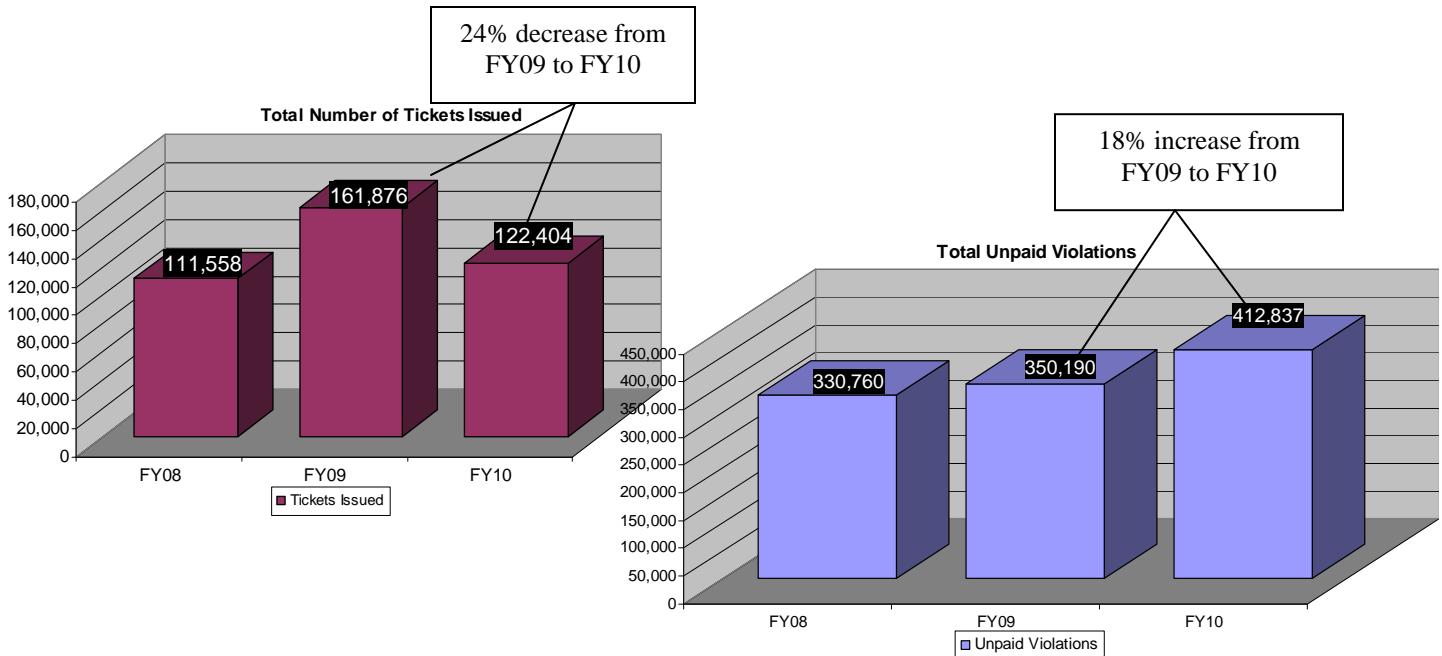
An increase in outstanding receivable balances can be attributed to City Council’s actions to increase the rates for fines and fees. The Controller’s Office compared both collections and enforcement for fiscal years 2008, 2009 and 2010.

A breakdown of the reviewed categories includes the following:

- tickets issued – total number of tickets issued for both SWEEP and false alarm billables.
- collections – total amount collected for SWEEP, False Alarm Fines and Alarm registrations.
- write-offs – total amount for all receivables older than three years dating back to 1992.
- unpaid violations – total number of unpaid SWEEP tickets and unpaid false alarm billables.

The chart below compares the collection and enforcements efforts by OAR:

	FY2008	FY2009	FY2010
Tickets Issued	111,558	161,876	122,404
Collections	\$5,842,159	\$7,013,643	\$8,536,962
Write-Offs	*Not available	\$44,629,316	
Unpaid Violations	330,760	350,190	412,837



Total Unpaid violations

Along with an increase in the amounts owed, the total number of unpaid violations has also increased since the last review.

- Total unpaid tickets less than three years increased by 80,487, or 64 percent.
- Total unpaid tickets less than one year old increased by 44,492, or 83 percent.

Aging Receivables

In our previous report we noted that these receivables were not listed on City accountability records, as required. In the current review, the Controller's Office observed that the SWEEPS and Alarms receivable figures are now listed on the fiscal year 2010 SAAR (Statement of Activity in Accounts Receivable) as required. However, the collectability of these receivables is questionable because OAR may continue to bill, what has become an inactive account for three years, until determining that it should be marked inactive and, as a result, cause accounts receivable figures to become inflated.

The City collected the following amounts in the prior three years: \$8,536,962 in FY10; \$7,013,643 in FY09; and \$5,842,159 in FY08. The total revenue collected from FY08 to FY10 increased by \$2.7 million, which can be attributed to the increase in many of the fines and fees during this same period.

While the total amount collected increased from FY08, the total receivable balance continues to grow as \$70.2 million was owed at the end of FY10. This represents a 38 percent increase in total receivables since FY08. For FY09 and FY10, the OAR had almost \$45 million of the total amount owed approved for write off, which consisted of accounts receivable older than three years.

Code Violation Notice Process

As noted in our previous report, Code violation notices are generated by both relevant city employees enforcing the various ordinances and by false alarms reported by police. Once a violation is issued, it is sent to OAR for quality control, and then to the third-party collection agency. However, according to OAR, the initial quality control and review process may take from two to three months due to manpower constraints such as the startup of the handheld initiative.

After the violation notice is sent to the contractor, the information is entered into their database and a notification letter to the violator is generated which includes a copy of the violation, charges, possible penalties, appeal rights and process. In addition, OAR administers the appeal process and provides various follow-up letters if the fine is not paid, as well as a warning and notification that the violation will be referred to Municipal Court.

Alarm Registration:

OAR bills burglar alarm registrants annually and continues to bill unless three calendar years pass without any account activity. Account activity includes any payment of the account or any false alarms at the registered premises. Even though the account may no longer be billed, the account remains active and all prior amounts will be brought forward and re-billed whenever there is any account activity.

OAR has made, and is continuing to make attempts at improving accuracy, as well as updating, and reconciling old and inaccurate violations records in the data base.

Court Referrals

As noted in the Controller's 2008 report, OAR is limited to referring only 160 cases per week to the Municipal Court System. Each case may represent multiple violations in which OAR uses their professional judgment on which cases to refer. Currently, there are 55,811 SWEEP tickets totaling \$5,143,275 eligible for court referral. OAR continues to evaluate the cases to be referred to maximize the possibility of obtaining a judgment that will result in the collection of monies owed.

In December 2008, the following section was added to the City Code to support the OAR:

Philadelphia Code 9.305 (8) (c) under Penalties states the following: "Any fine or costs imposed by the court shall be entered as a judgment against the violator."

Staffing

The Tax Review Board and Code Unit administrative staffing for 2010 contained 20 personnel, which is down from the 2008 level of 23. There were additional staff listed as part of the OAR budget for those years but OAR has indicated that they were dedicated for the Parking Violations Unit that handles adjudication for parking tickets only.

Controller's Recommendations:

To ensure that the City is receiving all amounts owed for fines and fees and to hold violators accountable for their actions, the Controller's Office has made the following recommendations for the Office of Administrative Review:

- Aggressively pursue outstanding balances less than three years old as a means to maximize collection potential.
- Coordinate with other appropriate city departments to deny issuing licenses and permits to any person/business who owes for unpaid violations, as well as deem null any current licenses until the fine has been paid in full.
- Coordinate with the Municipal Court to increase the number of referrals to clear the backlog of pending cases and improve the administrative due process delays.
- Explore the opportunity to alleviate backlog of appeal cases by establishing an incentive program that would slightly reduce the fine amount owed for individuals who pay the fine within 10 days and plead no contest to the violation.
- Identify and rank the agencies that issue the citations and identify which entities have best/worst chance of collection and meet with the agencies to improve the process from the point at which the ticket is issued.



CITY OF PHILADELPHIA

October 17, 2011

OFFICE OF ADMINISTRATIVE REVIEW

PAULA WEISS, *Esq.*

Executive Director

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Alan Butkovitz, City Controller
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1401 John F. Kennedy Boulevard
Philadelphia, Pa. 19102

RE: Office of Administrative Review Follow-Up Review of Enforcement and Collections

Dear Controller Butkovitz:

Thank you for the opportunity to respond to your follow-up report of September, 2011 on the Office of Administrative Review's (OAR) Enforcement and Collection activities.

Before responding to the major findings and specific recommendation in your report, I'd like to provide some basic information regarding OAR's efforts to improve the issuance and collection process over the past several years. Collections have risen steadily since the date of your last report, up from \$5.8 million in 2008 to \$8.5 million in 2010 to \$10.2 million in 2011. The increased collection activity in 2011 is notable because, with one exception, fine amounts have remained steady.

Additionally, I'd like to comment on the purpose of the Code Violation Notices (CVNs) processed by the OAR. The primary purpose for the Code, and the violation notices associated with it, is to improve and maintain the quality of life for Philadelphia residents and business owners. While payment of the violation fines does provide revenue to the City, the violations are primarily meant to act as an incentive for compliance to improve the quality of life in the City of Philadelphia. In fact, we are pleased to report that the recent increase in fines, coupled with enhanced collection efforts, has resulted in better compliance with code provisions in certain industries. For example, after receiving numerous violation notices, now valued at \$150 each, individual waste haulers have reported to us that they have altered their pick up schedules to comply with The Philadelphia Code requirements. This is the type of behavior modification that the fines and penalties are meant to drive.

The four major findings that were outlined in your report and my responses are as follows:

1. *Outstanding balances due for all violations have increased – to \$70.2 million, an increase of \$19.4 million over the last two years;*

There are several factors which contribute to the increased outstanding balances due that are in no way related to any lack of collection efforts on the part of the OAR:

- You noted in your report that five of the six fines increased by at least 100 percent; in one case, the increase was 200 percent and in another, 500 percent. Even if OAR's collection performance remained the same since your last report or was somewhat better, this high increase in per ticket fines would still cause an increase in the amount of uncollected revenues, unrelated to OAR's performance.
- As a result of the fine increases, violation recipients are less likely to pay the increased fines without requesting an administrative review hearing. Following the fine increases, administrative hearings to appeal CVNs increased from approximately 10,000 in FY08 to 12,000 in FY09, and 23,000 in FY11. This represents an increase from approximately 13% of the CVNs issued in FY08 to 25% of all CVNs issued in FY10. This increase in administrative appeal requests adds to the outstanding receivables because violation recipients wait for their review hearings before paying fines. As an example, CVNs for illegal sale of tobacco to minors increased from \$100 to \$250. The result has been a significant increase in the number of hearing requests and a corresponding delay and drop off in timely payments for these tickets.
- A recent initiative to issue CVNs via handheld electronic devices, rather than paper, also impacts the high receivables number. A major new initiative of this type involves a learning curve for enforcement officers and an education and training process for effective ticket issuance, and it is anticipated that there will be some adjustment period to perfect the new techniques. As a result, there were a number of tickets issued that are still in the database and reflected in the receivables number that cannot actually be collected.
- To more fully understand the accounts receivable figures, we believe it is important to note that the \$70.2 million includes amounts due for CVNs, excess false alarms and burglar alarm registration delinquencies that date back to the beginning of the program in 1992. In FY09, the OAR, for the first time, requested and received approval to write off all accounts receivables older than three years and dating back to the 1992 inception. In FY09 and FY10, the total receivables approved for write off were \$44,629,316. Although this \$44.6 million has been written off for accounting purposes, the amount still appears in the OAR database and is included in OAR reports as available for collection. It may be misleading, however, to imply that this is the amount of outstanding balances available for collection since they are largely uncollectible and have been written off as such. The next bullet, which

refers to receivables less than three years old, is a more realistic depiction of what we might reasonably expect to collect.

2. *Receivables less than three years old have increased by 31 percent from \$19.5 million in fiscal year 2008 to \$25.6 million in fiscal year 2010.*

➤ The \$25.6 million fiscal year 2010 receivables cited in your report include alarm registration receivables, whereas the 2008 amount of \$19.5 million does not. A like comparison of the numbers shows that receivables for CVNs and excess false alarm fines less than three years old increased from \$19.5 million in fiscal year 2008 to \$23,319,097 in fiscal year 2010. This is an increase of 20 percent, rather than the 31 percent in your report. This increase in receivables is not the result of decreased collection efforts or payments, but has been driven largely by the increase in fine amounts.

3. *The number of tickets issued decreased by 24% from fiscal year 2009 to fiscal year 2010.*

➤ Your comment compares fiscal year 2009 to fiscal year 2010, whereas all of the other information in your report compares fiscal year 2008 to fiscal year 2010 figures. Tickets issued in 2008 were 111,558, whereas tickets issued in 2010 were 122,404. In fact, this represents an **increase** in ticket issuance from 2008 to 2010 of 9.7 percent. While it is notable that ticket issuance in 2009 was much higher, I add this information to make consistent comparisons in the analysis throughout the report. The increase in tickets in 2009 may be attributed to the addition of new SWEEP officers in the Streets Department. In 2010, as you point out, the number of tickets issued declined from 2009 for several reasons. As mentioned above, there was a switch to using handheld devices for ticket issuance and there was a learning curve/training associated with that implementation. Also, the Streets Department undertook a major community education initiative designed to educate communities on the code violation process in general, as well as the newer violations that were put into place. These worthwhile efforts redirected the activities of some of the enforcement officers for some period in 2010, leading to decreased ticket issuance in that fiscal year.

4. *Collections increased by \$2.7 million from fiscal year 2008 to \$8.5 million in 2010, mainly due to an increase in fines and fees over this same period.*

➤ While it is true that some of the increased collection amount is due to the increased fines and fees, it is also notable that collections for fiscal year 2011 increased substantially from \$8.5 million in 2010 to \$10.2 million in 2011 with only one fine increase.

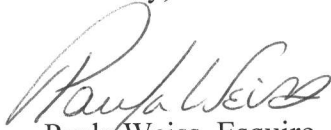
Finally, the following is provided in response to your specific recommendations:

- *You recommend that OAR aggressively pursue outstanding balances less than three years old as a means to maximize collection potential.* The OAR continues to pursue collections for all outstanding amounts due. Additionally, since your 2008 report, collection efforts have included working with the Law Department to bring suit against repeat violators and to execute on judgments, and more recently, a third party collection agency was engaged to attempt to collect on outstanding judgments.
- *You recommend that OAR coordinate with other city departments to deny issuing licenses and permits to persons who have unpaid violations, as well as deem null any current licenses until the fine had been paid in full.* The OAR will provide the list of violators with outstanding judgments to all relevant departments to identify any persons or businesses with licenses or permits that can be impacted. However, following contact with the Department of Licenses and Inspection, it is our understanding that changes to The Philadelphia Code may be required to suspend licenses or permits for unpaid code violations where license suspension is not expressly provided in the Code.
- *You recommend that OAR coordinate with Municipal Court to increase the number of referrals to clear the backlog of pending cases and improve the administrative due process delays.* The number of cases that can be filed each week was set by the Municipal Court Administration. Code Unit staff was involved in meetings with the court staff at that time and this was the upper limit of what the court could accommodate. We could attempt to pursue this discussion with the Court again, but cannot guarantee a positive outcome.
- *You recommend that we explore an incentive program that would slightly reduce the fine amount owed for individuals who pay the fine within 10 days and plead no contest to the violation.* First, I'd like to point out that fine amounts are set by The Philadelphia Code, and penalties are added only after non-payment within ten days. This is effectively the same as the incentive program that you recommend. The penalties are meant to incentivize violators to pay within a prescribed time period; violators who pay within the required time frame pay the lesser amount with no additional penalties. In addition, it is important to note that the Code does not provide the authority to adjust the fine amounts, although OAR does, through both its settlement and administrative review processes, reduce the amounts owed for CVN and alarm fine recipients. Although not available at the initial time of ticket issuance, these additional processes offer an incentive to pay by reducing penalties that may have accrued or providing an opportunity to avoid formal Municipal Court proceedings.
- *You recommend that we identify and rank the agencies that issue the citations and identify which entities have best/worst chance of collection and meet with the agencies to improve the process from the point at which the ticket is issued.* OAR staff regularly meets and/or speaks with department and agency representatives

about issuance and ticket quality control. The Streets Department issues approximately 80% of all CVNs and the OAR has an ongoing, almost daily, dialogue with Streets Department staff.

Thank you for the observations in your report and for the opportunity to respond.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula Weiss".

Paula Weiss, Esquire
Executive Director

Cc: Rob Dubow, Finance Director
Catherine Paster, First Deputy Finance Director
Harvey Rice, First Deputy City Controller