



September 19, 2007

Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, CA 92701
Attn: Honorable Nancy Wieben Stock

Subject: Response regarding AB939

Dear Judge Stock,

This letter is sent as a response to a request dated May 25, 2007. The City would like to apologize for the delay of this response. The Orange County Grand Jury requested information related to:

- "F-6. The presence of non-franchise haulers and so-called "Ghost Haulers" bins in cities that bypass the recycling system need to be corrected in order to establish the waste haulers' confidence that their municipalities are looking out for their best interest.
- R-6. Municipalities need to solve their unauthorized waste bin problems by enacting city ordinances forbidding these practices, imposing fines, including stepped-up fines for additional violations, and impounding unauthorized bins."

Both issues are currently addressed in the City of Stanton Municipal Code. The City of Stanton agrees with the finding F-6. The City of Stanton Municipal Code 6.04.120 details prohibited acts related to waste management. Specifically Item F of the above listed code section addresses that issue as follows:

"F. Collection of Solid Waste without Solid Waste Franchise and Permit Prohibited.

1. To protect public health, safety and well-being, no person except a solid waste enterprise with an exclusive solid waste franchise, or a person authorized under Section 6.04.070 shall collect any solid waste from any premises within the city.

2. No person other than a solid waste enterprise which has a solid waste franchise, permit or business license issued by the city shall place a commercial bin for

the accumulation of solid waste at any premises within the city or collect any solid waste from any commercial premises or permit or suffer a commercial bin to remain in any place within the city. Each day any person other than a solid waste enterprise which has a solid waste franchise, permit or business license issued by the city shall collect any solid waste from any commercial premises or place a commercial bin for the accumulation of solid waste at any premises within the city, or permit or suffer a commercial bin to remain in any place within the city shall constitute a separate offense.

3. If the city has granted one or more commercial solid waste franchises, then no person other than a solid waste enterprise which has an exclusive commercial solid waste franchise or which has continuation rights pursuant to the Public Resources Code or other law shall place a commercial bin for the accumulation of solid waste at any commercial premises within the city or collect any solid waste from any commercial premises or permit or suffer one of its commercial bins to remain in any place within the city. Each day any person other than a solid waste enterprise which has an exclusive commercial solid waste franchise shall collect any solid waste from any commercial premises or place a commercial bin for the accumulation of solid waste at any premises within the city, or permit or suffer a commercial bin to remain in any place within the city shall constitute a separate offense."

The Recommendation R-6 has been implemented and is also addressed in Stanton's Municipal Code. Item G from Stanton Municipal Code 6.04.120 details the authority to remove unauthorized commercial bins or drop boxes. Items M, N, and O detail enforcement against said actions. Both are as follows:

"G. Authority to Remove Unauthorized Commercial Bins or Drop Boxes.

1. If a commercial bin or drop box has been placed in violation of this chapter, in addition to any and all other penalties provided in this chapter, the city manager or his or her designee may, by notice, require the removal of any such commercial bin or drop box.

2. Notice shall be posted upon the commercial bin or drop box and a good faith effort shall be made to transmit, by facsimile, a copy of the such notice. The notice shall specify the violation and shall require the removal of such encroachment within twenty-four hours. Such notice shall be required one time only to any one owner of a commercial bin or drop box. Following such posting, it shall be conclusively presumed thereafter that the owner of the commercial bin or drop box has knowledge of the requirements of this chapter. Future placement of a commercial bin or drop box within the city by a person or company that has been previously notified of such violation shall be deemed to be in violation of the provisions of this chapter and such notice shall not be required to be posted on said commercial bin or drop box.

3. If the commercial bin or drop box is not removed within twenty-four hours from and after posting of the notice, the city may remove, or cause to be removed, the commercial bin or drop box at the expense of the owner of the commercial bin or drop box or at the expense of any other person causing the commercial bin or drop box to remain. If the owner of the commercial bin or drop box has been previously notified as referred to in this section, the city may remove, or cause to be removed, the commercial

bin or drop box immediately at the expense of the owner of the commercial bin or drop box or the person causing the commercial bin or drop box to remain.....

.....M. Enforcement. Pursuant to California Penal Code Section 836.5, the city manager or the city manager's designee is authorized to enforce the provisions of this chapter as well as those of California Penal Code Sections 374, 374a, 374.2, 374.3, 374.4, 374d, 374.7 and 375; California Government Code Sections 68055 et seq.; and California Vehicle Code Sections 23111 and 23112.

N. Enforcement by Designees. Wherever in this chapter enforcement authority is given to any city employee or officer, such authority may be exercised by designees of those officers and employees.

O. Misdemeanor. Violation of any provision of this chapter shall be a misdemeanor.

P. Enforcement—Authority. The city manager or the city manager's designee shall have the authority to enforce the provisions of this chapter. This authority shall be in addition to the authority granted to law enforcement personnel pursuant to this code.

Q. Civil Action by Authorized Recycling Agent. Nothing in this chapter shall be deemed to limit the right of any solid waste enterprise to bring a civil action against any person who violates California Public Resources Code Sections 41950—41951, nor shall a conviction for such violation exempt any person from a civil action. (Ord. 886 § 1 (part), 2004)"

The City of Stanton supports the Grand Jury's mission to "make progress" with Waste Diversion. If there are any questions please contact Sean Crumby, Director of Public Works at (714) 379-9222, Ext. 204.

Sincerely,



David J. Shawver
Mayor, City of Stanton

CC: City Manager

Attachments: City of Stanton Municipal Code 6.04.120