

Report Title: Residential Pre-Sale Inspections – Should Marin County Also Require Them?**Report Date: May 30, 2002****Response by: Jin Yang****Title: Mayor of the Town of Corte Madera****FINDINGS**

- I (we) agree in part and disagree in part with the finding numbered: 6

The Town of Corte Madera (hereafter “Town”) does not have sufficient information to comment upon the scope of pre-sale inspections in other jurisdictions studied in comparison to their applicable municipal code provisions. Based upon the findings made by the Grand Jury throughout its report, the Town would posit that the pre-sale inspections of some jurisdictions do reach beyond the authority specifically conferred by the jurisdiction. The Town, however, is not included in this category. Generally, the Town’s pre-sale inspections are brief and are limited to the zoning regulations and permit history that apply to the structure and any immediate health or safety danger that may be discovered by the inspector during the inspection. The Town’s Municipal Code defines the scope of the residential resale report as showing the “authorized use, occupancy, and zoning classifications of such property and all other pertinent information relating thereto.” (Corte Madera Municipal Code Section 15.30.020.) The residential pre-sale inspections conducted by the Town do not exceed the authority conferred by the Municipal Code or by Government Code Section 38780.

- I (we) agree in part with the finding numbered: 7

Based upon the Town’s knowledge of the pre-sale inspections and reports of other jurisdictions that are the subject of this Grand Jury report, the Town does agree that there is substantial variance among the approaches taken by each jurisdiction to pre-sale inspections and reports. Realtors have expressed to Town staff their frustration with these varying practices. However, Town staff has also observed that realtors do generally appear to be supportive of requiring pre-sale reports and inspections when a property is being placed on the market and do not complain to Town staff about the Town’s own pre-sale inspection and report procedures.

- I (we) disagree wholly or partially with the finding numbered: 8

While development of a cost-recovery formula for a pre-sale inspection program seems straightforward, distributing the workload into an existing staff structure is not a simple matter. The man-hours necessary to perform residential pre-sale inspections is a function of the average number of properties that are sold within a given jurisdiction in a given period of time. In small jurisdictions, where staffing is minimal, it may not be feasible to hire (or utilize) additional personnel to perform such work and the additional workload may interfere with other regulatory activities. In larger jurisdictions, the workload created by this type of an inspection program would likely require an increase in staff size and budget. The Town of Corte Madera is a small jurisdiction. An increase in the duties and responsibilities of staff for residential pre-sale inspections, or a substantial increase in the number of such inspections, could result in other duties of the building department (such as plan review and permit inspections) being conducted in a less timely and efficient manner.

RECOMMENDATIONS

- Recommendation numbered 2 has not yet been implemented, but will be implemented in the future (within the next 90 days.)
- Recommendation numbered 3 will not be implemented because it is not warranted and is not reasonable.

As stated in the Town’s response to Recommendation #2, the Town’s practices in making residential pre-

sale inspections and reports will be reviewed in comparison with its Municipal Code and the Government Code. The Town will consider how its practices, and Municipal Code, should be modified, if at all, given the individual circumstances of the Town's staffing, resources, the demand for pre-sale inspections and legal requirements imposed upon the Town. As stated in the Town's response to Finding #8, the circumstances of large and small jurisdictions are very different and determining a global method of conducting pre-sale inspections and reports may not be in the best interests of each individual jurisdiction. The Town has attempted to make its pre-sale inspection and report process conducive to the aims of the real estate community and will continue to consider this interest in its review of any modifications that should be made.

Date: _____ Signed: _____