



## CALIFORNIA CONTRACT CITIES ASSOCIATION

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The Honorable Chad Mayes  
Assemblymember, 42nd District  
State Capitol, Room 4098  
Sacramento, CA 94249

RE: AB 2495 (Mayes) Prosecuting Attorneys: Charging Defendants for the Prosecution Costs of Criminal Violations of Local Ordinances

Dear Assemblymember Mayes,

California Contract Cities Association (Contract Cities) respectfully opposes AB 2495 (Mayes), which would prohibit a city, including an attorney acting on behalf of a city, from charging a defendant for the costs of investigation, prosecution, or appeal in a criminal case, including a violation of a local ordinance. Contract Cities represents 76 cities with over 7.5 million residents across California. Our mission is to protect local control, including a city's ability to reasonably enforce local ordinances.

Existing law allows cities to establish and enforce local ordinances, and their ability to recover its expenses, including reasonable attorney fees for corrective action taken in response to nuisance violations (in accordance to with Cal. Gov. Code Sections 38660, 38773, 38773.1 and 38773.5). Historically, cities have provided property owners and businesses with good faith, reasonable time and effort to correct violations by means of notification and due process. The events and practices that took place in the cities of Indio and Coachella, as articulated by Assemblymember Mayes' concerns, while troubling, do not reflect the best practices and efforts of many cities in California.

AB 2495 would negatively impact cities in several ways. It would reduce a city's police powers to enforce its ordinances and directly impede the democratic process by which ordinances are created. The inability to collect restitution incurred by litigation would severely harm a city's financial resources, especially in cases where a defendant has intentionally violated the code and is refusing to correct the condition or abate the nuisance created by the code violation. Many more people will be emboldened to violate city ordinances if they know that such code violators cannot be required to reimburse the city for its costs incurred in abating a nuisance that they created and could have abated on their own. AB 2495 would require cities to divert large amounts of taxpayer funds for such code violation litigation, while reducing funds dedicated to city services, including public safety, senior services, and parks and recreation. By prohibiting a city to recoup its costs expended for criminal code enforcement and nuisance abatement, AB 2495 would indirectly impose these costs onto residents, the great majority of whom approve of and abide by these ordinances that were meant to deter such unlawful activity.

AB 2495 would overrule existing statutes, such as Cal. Gov. Code Sections 38773, 38773.1 and 38773.5. It would also undermine legal precedent established in case law, which has upheld the rights of cities to police powers, recoup the costs of code violation enforcement and nuisance abatement, while ensuring that a defendant's due process rights are protected during these proceedings. In *Whiting v. Pasadena* (1967) 255 Cal. App. 2d 372, a new property buyer, who was assessed with the City of Pasadena's demolition costs incurred prior to the new buyer's purchase, sued to remove this assessment, claiming that the City had failed to record an order of

demolition on the property, as legally required. However, the court found the City to have given this buyer sufficient notice of this assessment, since a notice of completion of demolition had been recorded on the property two months before the buyer purchased the property. This notice included a warning of the possibility of an assessed charge for the costs of demolition against the property. The court noted that the demolition itself was lawful since the City of Pasadena demonstrated reasonable notice to the prior owner to address substandard conditions of the property, notice of a hearing, finding of nuisance at the hearing and notice to abate, thereby affording the prior owner with reasonable due process. Other cases in which courts have discussed the requirement that a city's police powers to abate nuisances are to be balanced with its constitutional duty to provide due process in the exercise of these powers are: *Leppo v. City of Petaluma* (1971) 20 Cal. App. 3d 711 and *People ex rel. Camil v. Buena Vista Cinema* (1976) 57 Cal. App. 3d 497.

Moreover, cities have afforded administrative remedies for ordinance violations, including informal efforts by city staff to resolve the violation and formal hearings before the city council when such informal efforts have been unsuccessful. One example from a member of Contract Cities comes from the City of Walnut, where residents and businesses can receive three levels of administrative remedies before pursuing legal recourse. Use of these administrative remedies is much less expensive for both parties and, if successful, eliminates the need for litigation and the need to recoup the high litigation costs from the losing party.

Contract Cities strongly believes the author may address the issue of large recoupment fees by allowing cities to provide reasonable means for a defendant to exhaust all administrative remedies, while safeguarding the defendant's due process rights through formal notices, opportunities to challenge the finding of violation, reasonable time for corrective action, and an established appeals process. Throughout this process, a defendant can inquire regarding the city's costs in enforcing its code, since existing law provides that a city can only recover its actual expenses. See e.g. Cal. Gov. Code Sec. 38773.

For the reasons indicated above, Contract Cities respectfully opposes AB 2495. We remain committed to working with Assemblymember Mayes and are available to discuss potential remedies for the bill. If you have any questions, please contact Michael Vuong at [michael@contractcities.org](mailto:michael@contractcities.org).

Sincerely,



Jorge Morales  
Vice Mayor, City of South Gate  
President, California Contract Cities Association



Marcel Rodarte  
Executive Director  
California Contract Cities Association

Cc: League of California Cities