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Clerk of the Board

BOARD OF SUPERVISORS

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VICTOR MOW
Third District

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Second District

STEVEN GUTIERREZ
First District

August 19, 2003

Honorable George Abdallah
Presiding Judge of the Superior Court
County of San Joaquin
222 E. Weber Avenue, Room 303
Stockton, CA 95202

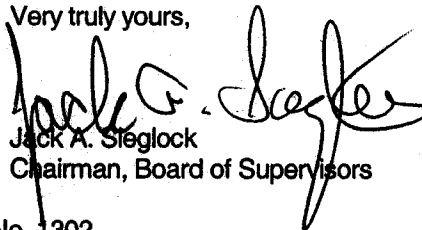
Dear Judge Abdallah,

**Response to Grand Jury Final Report Case No. 1302
District Attorney Fifth Floor Office Space in County Courthouse**

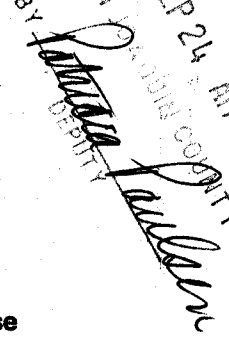
Pursuant to Section 933.05 of the California Penal Code, attached is the County's response to Grand Jury Final Report, Case No. 1302, District Attorney Fifth Floor Office Space in County Courthouse.

Please contact County Administrator Manuel Lopez at (209) 468-3203 if you have any questions regarding this matter.

Very truly yours,


Jack A. Seiglock
Chairman, Board of Supervisors

Attachment – Response to Grand Jury Final Report, Case No. 1302

ASSESSOR RECORDER
COUNTY CLERK
MANUEL LOPEZ
SEP 24 AM 9:45
BY  DEPUTY

Before the Board of Supervisors

County of San Joaquin, State of California

B-03-1025

MOTION: Marenco/Gutierrez

This Board of Supervisors hereby:

1. Approves the proposed response to the 2002-03 Grand Jury Report regarding District Attorney Fifth Floor Office Space in County Courthouse (Case #1302); and
2. Authorizes the Chairman to sign and submit the response to the Presiding Judge of the Superior Court.

I HEREBY CERTIFY that the above order was passed and adopted on 8/19/03, by the following vote of the Board of Supervisors, to wit:

Ornellas, Mow, Gutierrez, Marenco, Sieglock

AYES:

None

NOES:

None

ABSENT:

None

ABSTAIN:

- c: County Administrator
- County Counsel
- Facilities Management Director
- Presiding Judge of the Superior Court
- Grand Jury Foreman
- Board Clerk

LOIS M. SAHYOUN
 Clerk of the Board of Supervisors
 County of San Joaquin
 State of California

Lois Sahyoun



**RESPONSE TO GRAND JURY CASE #1302
DISTRICT ATTORNEY OFFICE SPACE IN COUNTY COURTHOUSE**

FINDINGS

FINDING 1:

San Joaquin County is currently paying \$26,974.00 per month for 20,887 square feet in the Cort Tower for the District Attorney's office. According to the County Facility Management Division, the project to remodel the space within the Courthouse for the District Attorney began construction in 1994. That means that, if the County has continuously been paying the rent listed above since 1994, San Joaquin County residents have paid roughly \$2,600,000.00 for rent. If it had cost \$100.00 per square foot to complete the remodel in 1994, the County would have saved at least \$500,000.00 as of 2003. The lost to county residents will increase by at least an additional \$320,000.00 each year. This is admittedly a hypothetical calculation based on broad assumptions, but it does serve to indicate that the cost to County residents has been significant.

RESPONSE:

Partially agree with finding. Agree that the current monthly lease payment is accurate and is a significant cost. Although the hypothetical calculation shows the rental cost could have been \$2.6 million, in actuality total rent paid to date is \$593,428. The District Attorney Relocation project is one facet of an overall plan to reallocate program space within the Courthouse. A specifically ordered succession of previous moves have had to take place in order to free up the area to be remodeled for the District Attorney. The moves have had to occur within the availability of Courthouse Construction Trust Funds. Since conception of the project, the following tasks have been performed.

1. Refurbished Canlis Second Floor to accept Adult Probation in early 1993. Work was completed by F&H Construction, and Adult Probation was relocated from the Courthouse Fifth Floor to the Canlis Building in November 1993. Progress on the project was stalled as code compliance issues centering on County plan check process were worked out during the construction documents phase of the project, which resulted in the Board adopting County policy for construction projects (BO-96-1347).
2. Completed tenant improvements at County's Parking Structure in Summer of 1996 to house the Arts Council due to relocation from the Courthouse fourth floor. Work was completed by participants of the Summer Youth Employment Program and directed by an industrial arts instructor from Edison High School.
3. Constructed staircase between the fourth and fifth floors. Work was completed by Kent Shubert Construction in August 1997.
4. Refurbished Courthouse basement area so Court Reporters could be relocated from fifth floor. Work was completed by force account labor. Work was completed in late 1999.
5. Approximately two-thirds of the fifth floor asbestos was abated by Bay View Environmental in March 2000.
6. Contract was awarded to Diede Construction to install fire sprinkler backbone and rough framing, plumbing and electrical on fifth floor. Work was completed in January 2001.
7. District Attorney Investigators relocated to Cort Tower in October 2001.
8. Asbestos Abatement for remainder of fifth floor was completed in October 2002 by Consolidated Western.
9. Permian Builders was awarded a contract to complete the fifth floor in June 2003. A total of 150 days is allowed to complete the project.

RECOMMENDATIONS

RECOMMENDATION #1:

San Joaquin County needs to conduct cost-effective analysis on all property rental. The economic viability of construction versus continued rental should be evaluated on each location currently occupied by county staff.

RESPONSE: Recommendation has not yet been implemented. San Joaquin County evaluates the cost-effectiveness of each potential lease at the time of execution. However, an overall space plan including both rented and owned facilities does not currently exist. This type of analysis could be incorporated into a County capital improvement plan (see Response #5). Funding sources are a major consideration in acquiring space. State or Federal funds typically allow market rate expenditures for leases, but limit payment of construction costs or lease of County-owned structures to 2% per year. In other words, if a new facility is constructed, the County would most likely be required to fund construction costs and recover expenses over a 50-year period.

RECOMMENDATION #2:

Permanent construction by County staff does not appear to be a viable option. The existing remodel of the vacant space initiated in 1994 is still not complete in 2003. All future construction should be put out to bid to the construction industry.

RESPONSE: The recommendation will not be implemented. Except for the initial demolition of a portion of the fifth floor, all work completed to date has been performed by the private sector (see response to Finding #1). The use of in-house labor is more advantageous in those instances where detailed plans and specifications are not necessary. Time and cost savings also can be realized because the 45-60 days necessary to advertise, bid, and award a contract to the private sector can be avoided.

RECOMMENDATION #3:

The partially constructed partitions within the existing space in the District Attorney's office should be immediately completed. Partitions in those areas that will be occupied by attorneys or investigators should reach all the way from the floor to the ceiling to insure privacy.

RESPONSE: Recommendation has been implemented. Bids have been solicited, received and a contract has been awarded San Joaquin County and calls for walls that extend from deck to drop ceiling.

RECOMMENDATION #4:

The County Administrator should immediately request bids on the completion of the existing remodel of the vacant floor of the Courthouse. Subsequent construction on additional floor space in the Courthouse should be bid when that project is completed.

RESPONSE: Recommendation will not be implemented. Bids have been received for the vacant floor (see response to recommendation #3), however, the additional floor cannot be bid until two courtrooms are relocated from the fourth floor to the second floor of the Administrative wing. Completion of the fifth floor will result in relocation of only a portion of District Attorney staff. Remaining staff will be consolidated to one end of the second floor freeing up necessary space to allow relocation of the fourth floor courtrooms to take place. Completion of the fourth floor will require relocation of the law library and a phased construction schedule.

RECOMMENDATION #5:

A five-year capital improvement plan must be maintained and progress toward its completion should be evaluated on an annual basis.

RESPONSE: Recommendation has not yet been implemented. Staff may consider developing a five-year capital improvement program for Board of Supervisors consideration should resources become available in the future.



Grand Jury

County of San Joaquin

Courthouse

222 East Weber Avenue-Room 303

Stockton, California 95202

(209)468-3855

FINAL REPORT

CASE #1302 DISTRICT ATTORNEY OFFICE SPACE IN COUNTY COURTHOUSE

REASON FOR INVESTIGATION:

On February 27, 2003, the San Joaquin County Civil Grand Jury (SJCCGJ) toured the facilities in the Courthouse. Included in the tour were the courtrooms, holding cells and office space on most floors including the area occupied by the District Attorney and his staff.

OBSERVATIONS:

The office space assigned to the District Attorney's office appears to include space that is not conducive to professional operation and the control of sensitive issues routinely addressed by that office. There are multiple problems with the space. Various portions of the floors that are supposed to be occupied by the District Attorney's office are unfinished. In fact, one whole floor had open metal stud walls and other areas, on separate floors, only had partially completed cubical partitions. Even if those partitions were finished, they would not provide the privacy a witness would expect if they were considering the possibility of testifying in a criminal matter.

METHOD OF INVESTIGATION:

Information was requested from the County Administrator's Office concerning vacant space in the vicinity of the Courthouse and the amount of space being rented and the price paid for that space by San Joaquin County that is in proximity to the Courthouse.

FINDINGS:

San Joaquin County is currently paying \$26,974.00 per month for 20,887 square feet in the Cort Tower for the District Attorney's office. According to the County Facility Management Division, the project to remodel space within the Courthouse for the District Attorney began construction in 1994. That means that, if the County has continuously been paying the rent listed above since 1994, San Joaquin County residents have paid roughly \$2,600,000.00 for rent. If it had cost \$100.00 per square foot to complete the remodel in 1994, the County would have saved at least \$500,000.00 as of 2003. The lost to county residents will increase by at least an additional \$320,000.00 each year. This is admittedly a hypothetical calculation based on broad assumptions, but it does serve to indicate that the cost to County residents has been significant.

RECOMMENDATIONS:

1. San Joaquin County needs to conduct cost-effective analysis on all property rental. The economic viability of construction versus continued rental should be evaluated on each location currently occupied by county staff.
2. Permanent construction by County staff does not appear to be a viable option. The existing remodel of the vacant space initiated in 1994 is still not complete in 2003. All future construction should be put out to bid to the construction industry.
3. The partially constructed partitions within existing space in the District Attorney's office should be immediately completed. Partitions in those areas that will be occupied by attorneys or investigators should reach all the way from the floor to the ceiling to insure privacy.
4. The County Administrator should immediately request bids on the completion of the existing remodel of the vacant floor of the Courthouse. Subsequent construction on additional floor space in the Courthouse should be bid when that project is completed.
4. A five-year capital improvement plan must be maintained and progress toward its implementation should be evaluated on an annual basis.

RESPONSE REQUIRED:

Pursuant to §933.05 of the Penal Code:

The San Joaquin County Board of Supervisors and County Administrator shall comment in writing, to the Presiding Judge of the Superior Court - within (90) days of the publication of this report.

As to each finding in the report, a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding with an explanation of the reasons therefore.

As to the recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed 6 months.
- d. The recommendation will not be implemented, with an explanation therefor.