



# Indio, Coachella aren't the only places where code violations can lead to huge legal bills, lawyer says

by Carrie Bradon | Mar. 6, 2018, 8:49pm



COACHELLA – A law firm that was contracted to prosecute code violations in Indio and Coachella is alleged to have taken residents to criminal court for small crimes and later billing them weighty prosecution fees.

Silver & Wright prosecuted residents in criminal court for code violations, such as having an unkempt front yard, [according to a Desert Sun article](#) published in November 2017.

John Marshall of Lewitt Hackman in Encino believes the real issue lies with the cities involved.

"The law firm is apparently carving out a niche and it's getting the cities to do two things," Marshall told the *Northern California Record*. "One, enter into a contract with an outside law firm to do the enforcement, becoming the prosecutors; (and) two, getting the cities to criminalize the offenses and providing that the offenders then have to pay the legal costs of enforcing it."

Marshall believes that this approach to lawsuits concerning code enforcement is a growing trend, though the simple act of seeking outside law firms to prosecute is fairly normal.

"Turning it into a criminal violation is a little more rare, and cities are doing it and they have the right to do it, but it creates an issue of expectation," Marshall said. "When you get cited for one of these things, usually people aren't thinking a.) this is criminal, and b.) I might get hit with a legal bill, so there's a real fault in it. And I think that it's the people who are being charged for these things don't know that they're going to get hit with the legal bill until after they've pled guilty."

Marshall explained that residents often plead guilty for code violations as they believe that they are simply going to be paying a fine, but that this

particular case highlights that residents are unaware of the weight of their guilty plea in criminal court.

"In pleading guilty, they think they're paying a fine that's \$75 or \$100, but then they get hit with these huge legal bills," Marshall said.

"Turning it into a criminal offense is not that common, although the city certainly has the right to do that by ordinance. But because it is turned into a criminal offense, which takes a lot of time to prosecute with a different standard, the time that the lawyers actually put in and therefore are billed for, probably goes up much more than it would in a civil context."

Marshall explained that for most cities, these violations are taken to the civil and not criminal court, which normally leads to less time required to put the prosecution together.

"At least the hourly rates I've seen the cities are agreeing to are not outrageous hourly rates, but there is a provision in the code of ethics for the rules of professional conduct of the Bar that deals with people who are prosecutors," Marshall said. "It says basically you are supposed to tell the other side what's involved here, and I think if anything is going on, it's that they're not telling people 'if you plead guilty to this you're gonna get hit with the fees.'"

Code enforcement violations, Marshall believes, have been increasing, but what's more of an issue is the publicity that this topic has been given and that the rule of professional conduct has been not fully adopted by law firms prosecuting individuals as they should.

The [State Bar of California Rules of Professional Conduct](#) say in subpart D that the prosecutor shall: "Make timely disclosure to the defense of all evidence or information known to the prosecutor that the prosecutor knows

or reasonably should know tends to negate the guilt of the accused, mitigate the offense, or mitigate the sentence, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.”

"While this Rule is primarily addressed to defendants who might go to jail for a specified term, the phrase 'mitigate the sentence' may also reasonably be construed as telling a defendant what will happen if he or she is convicted or pleads guilty," Marshall said.

Curtis Wright of Silver & Wright provided a brief comment on the issue and its involvement in the cases.

"The facts and law regarding these matters have not been accurately portrayed in the media nor in the lawsuit, and we look forward to the truth coming to light and the law enforcement process being vindicated in court," Wright told the *Northern California Record*.

Several other entities including Wendel, Rosen, Black & Dean LLP in Oakland; the California Association of Code Enforcement Officers; and Farella, Braun + Martel in San Francisco were not available for comment.

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