

City of Detroit

OFFICE OF THE AUDITOR GENERAL



Audit of the Board of Zoning Appeals

July 2008 – June 2010



City of Detroit
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LOREN E. MONROE, CPA
AUDITOR GENERAL

MEMORANDUM

DATE: March 21, 2011
TO: Honorable City Council
FROM: Loren E. Monroe, CPA *Loren E. Monroe*
Auditor General
RE: Audit of the Board of Zoning Appeals
C: Mayor Dave Bing
Tyrone U. Miller, Director – Board of Zoning Appeals

Attached for your review is our report on the audit of the Board of Zoning Appeals. This report contains our audit purpose, scope, objectives, methodology and conclusions; background; status of prior audit findings; our audit findings and recommendations; and the response from the Board of Zoning Appeals.

Responsibility for the installation and maintenance of a system of internal control that minimizes errors and provides reasonable safeguards rests entirely with the Board of Zoning Appeals and the Finance Department. Responsibility for monitoring the implementation of recommendations is set forth in section 4-205 of the City Charter which states in part:

Recommendations which are not put into effect by the agency shall be reviewed by the Finance Director who shall advise the Auditor General and the City Council of the action being taken with respect to the recommendations.

We would like to thank the Board of Zoning Appeals for the cooperation and assistance extended to us during this audit.

This audit report and all other Auditor General reports can be obtained from our website at

<http://www.detroitmi.gov/CityCouncil/LegislativeAgencies/AuditorGeneral/AuditsandReports.aspx>

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AGENCY RESPONSE

Board of Zoning Appeals

ATTACHMENT A

AUDIT PURPOSE, SCOPE, OBJECTIVES, METHODOLOGY AND CONCLUSIONS

AUDIT PURPOSE

The Audit of the Board of Zoning Appeals (BZA) was performed in accordance with the Office of the Auditor General's (OAG) Charter mandate to audit the financial transactions of all City agencies at least once every two years and report findings and recommendations to the City Council and the Mayor.

AUDIT SCOPE

The OAG performed an evaluation and testing of the BZA's control procedures for cash receipts, disbursements, fixed assets, and imprest cash transactions for the two-year period ended June 30, 2010. The OAG also reviewed and evaluated processes employed by the BZA in handling zoning appeals.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except for the completion of an external peer review of the Office of the Auditor General within the last three years.

AUDIT OBJECTIVES

Our audit objectives were:

- To assess BZA's system of internal control related to financial transactions.
- To determine BZA's compliance with Finance Directives, policies, plans, procedures, laws and regulations regarding financial transactions and selected operational areas.
- To conduct a follow-up review of the audit findings and issues of non-compliance from the prior audit report.
- To review the effectiveness and efficiency of the department's handling of zoning appeals.

AUDIT METHODOLOGY

To accomplish our audit objectives, our audit work included the following:

- A review of City ordinances and other pertinent information relating to the BZA;
- Interviews with BZA personnel;
- Observation and testing of internal control processes and procedures for cash receipts, disbursements, fixed assets, and imprest cash, and selected operational areas, and
- An examination of sample transactions that we considered satisfactory to achieve our objective.

CONCLUSIONS

As a result of our audit we have concluded that:

- Of the three findings from the previous audit report, none had been resolved.
- The BZA did not fully comply with all policies, plans, procedures, laws and regulations.
- BZA has some weaknesses in its internal controls; however, due to the small size of the department's budget and the immateriality of the dollars where weaknesses exist the risk of loss is minimal.
- BZA should strengthen its operational policies and procedures in an effort to improve the effectiveness of the BZA staff and board.
 - Required annual training of the BZA members and the BZA staff should be implemented.
 - Assign a point person from each department involved in the zoning process, including Buildings, Safety Engineering & Environmental Department, City Planning Commission, Planning and Development Department, and BZA in order to improve communication between the departments and improve the service to the citizens and business community.

BACKGROUND

The Board of Zoning Appeals (BZA) was established by ordinance in 1940 under the authority granted to the City by the Zoning Enabling Act of Michigan (1921 PA 207).

The BZA's primary role is to hear and decide appeals from and review any order, requirement, decision or determination made in the enforcement of the City of Detroit Zoning Ordinance. They are also charged with accepting appeals from decisions made by the Buildings, Safety Engineering & Environmental Department (BSEE) after a hearing has been held before the BSEE's Hearing Officer.

The BZA conducts investigations and public hearings to determine whether variances, exceptions or modifications of approved regulated uses of land will be in the best interest of the public and that the spirit and intent of the zoning ordinance is upheld.

The Director of the BZA is Tyrone Miller, who was appointed on March 1, 1991. The BZA consists of seven members appointed by the City Council for terms of three years.

The following table shows the budgeted appropriations, revenues and number of staff for the BZA for the 2008-2009 and 2009-2010 fiscal years.

	Fiscal Year Ended June 30	
	2009	2010
Budgeted Appropriations	\$ 881,130	\$ 800,484
Budgeted Revenues	\$ 105,000	\$ 105,000
Net Tax Cost	<u>\$776,130</u>	<u>\$695,484</u>
Number of Staff	6	5
Number of Cases	82	93

STATUS OF PRIOR AUDIT FINDINGS

The prior audit of the Board of Zoning Appeals (BZA) for the two years ended June 30, 2008 by the Office of the Auditor General included the internal control and non-compliance issues listed below. The status of each internal control and non-compliance issue is noted.

1. The BZA Did Not Fully Comply with the Imprest Cash Manual
This finding has not been resolved and is discussed in Finding 4 on page 10 of this report
2. Inadequate Segregation of Duties Over Voucher Disbursements
This finding has not been resolved and is discussed in Finding 3 on page 9 of this report.
3. Cash Receipts Were Not Accurately Reconciled to the General Ledger
This finding has not been resolved and is discussed in Finding 2 on page 8 of this report.

REVIEW OF BOARD OF ZONING APPEALS OPERATIONS AND RELATED RECOMMENDATIONS

In addition to testing areas of internal control, the Office of the Auditor General (OAG) also reviewed the processes and procedures performed by the Board of Zoning Appeals (BZA) staff in carrying out the department's core mission to conduct investigations and public hearings to determine whether variances, exceptions or modifications of approved regulated uses of land will be in the best interest of the public and that the spirit and intent of the zoning ordinance is upheld.

In the course of this review, the OAG interviewed representatives of the BZA, Buildings, Safety Engineering & Environmental Department (BSEE) and the City Planning Commission (CPC). We found that communication between the various departments involved in a citizen or business owners' journey through the zoning process is, at times, poor. When applying for a zoning permit an individual may need to interact with three different departments. **We recommend that a point person in each of the departments involved be assigned to liaise with the other involved departments to ensure a smooth process for the applicant.**

We reviewed the practices of other U.S. cities zoning appeals boards or similar bodies and found that some cities, like Chicago, have a one-stop approach to the zoning process, The City of Chicago houses its Board of Zoning Appeals in the Department of Housing and Economic Development. Even though the Board of Zoning Appeals is a separate and independent entity it is still housed within the umbrella organization which allows for streamlined communication and makes it easier for the customer to navigate the system. All of the departments involved in this process are under one umbrella department, Housing and Economic Development. This organizational set-up allows for one overall director of the department who sets the policies and procedures for the entire process and can ensure that all divisions are properly communicating with each other. Many cities also provide a written guide to the zoning process, which leads the citizen or business owner through the step-by-step process from department to department, that is necessary to visit in an effort to secure the necessary permits. The City of Detroit's BZA and CPC are legislative agencies and BSEE and Planning & Development Department are executive agencies. Because of this separation, it is unlikely that all of these agencies would function as a part of one large residential and commercial economic development department. However, **we recommend that the City Council study the feasibility of combining the administrative efforts of CPC and the BZA** to streamline the zoning process.

We recommend the BZA board and BZA staff be required to participate in annual training on various relevant topics. Currently the BZA board is not required to obtain any level of training to maintain their status as a board member. Through our conversations with various departments involved in the

zoning process and through reviewing the practices of other cities we have found that some level of training should be required of the board members on an annual basis. The training should include training in State of Michigan Open Meetings Act, the Detroit Zoning Ordinance, and other pertinent topics.

AUDIT FINDINGS AND RECOMMENDATIONS

1. Board of Zoning Appeals Did Not Publish Hearing Notices

The Board of Zoning Appeals (BZA) did not begin to post hearing notices in the Detroit Legal News until July 2010. Up until this point the staff of the BZA did not realize that BZA was required to post the notices in the Detroit newspaper of record.

Notification for BZA hearings is required by the Detroit Zoning Ordinance, the State of Michigan Zoning Enabling Act and the State of Michigan Open Meetings Act. The notifications need to be published at least fourteen days prior to the scheduled hearing.

Failure to properly publish notice of hearing can result in BZA decisions being appealed and overturned.

The BZA staff indicated that they did not have adequate funding to publish the notices prior to the current fiscal year.

Recommendations

We recommend that the BZA publish notice of hearing in the City's newspaper of record at least fourteen days prior to the scheduled hearing date. We also recommend that BZA include and complete a checklist in each file that includes all of the steps that need to be taken by the applicant and the BZA staff prior to the hearing. This checklist will help to ensure that all required steps are completed prior to the hearing being held.

2. Cash Receipts Were Not Accurately Reconciled to the General Ledger

Cash is received on behalf of the BZA by both the Finance Department-Treasury Division and the License and Permits Section of the Buildings, Safety Engineering & Environmental Department (BSEE). The BZA monitors the revenue received by reconciling the revenues reported in the Detroit Resource Management System (DRMS) to the BZA's log. We noted that for fiscal year 2009-2010, the BZA's revenue recorded in the log was \$1,533 more than the revenue posted in DRMS.

Good internal controls over cash receipts require that receipts be properly accounted for and discrepancies investigated and corrected.

Unreconciled amounts could affect the integrity of the City's accounting records. Management's ability to manage revenues and prepare budget recommendations is also impaired by the lack of reliable information.

The BZA receives payments that are reflected in DRMS, but does not receive all the cases from BSEE. Also, BZA's reconciliation does not take into consideration merchant service charges for payments with credit cards. Credit card merchant service charge information only shows on the DRMS report.

Recommendations

We recommend the BZA modify the cash receipts reconciliation process to fully identify and resolve any differences between the BZA's records and DRMS.

3. Inadequate Segregation of Duties Over Voucher Disbursements

The employee that is responsible for ordering supplies and equipment is also responsible for receiving supplies and inputting equipment information into DRMS. The same employee also has management approval authorization.

The Association of Certified Fraud Examiners states that good control requires that there is separation of duties between authorization, purchasing, receiving, and accounting.

Inadequate segregation of duties increases the risk of theft or misappropriation. Relying on a single employee to perform all of the functions related to purchasing could impede the functioning of the office if the employee is absent or leaves the agency.

A lack of adequate staff to properly segregate duties is partially the cause of the lack of segregation. The BZA has only five employees and only one employee uses DRMS.

Recommendations

We recommend the BZA segregate duties wherever possible and ensure that management reviews the financial transactions and processes on a regular basis. Further, the agency should obtain DRMS training to at least one other employee.

4. The BZA Did Not Fully Comply with the Imprest Cash Manual

The BZA did not fully comply with the imprest cash manual.

- The actual imprest cash amount is not in agreement with the authorized imprest cash amount of \$200.
- The department did not properly conduct quarterly independent audits of its imprest cash funds and retain written records of the audits for review by the Auditor General.
- A person other than the designated custodian and alternate custodian has access to the imprest cash.

The imprest cash manual states that the custodian or alternate custodian are the only persons that should have access to the cash box. The cash box should be locked and only accessible by those people.

Imprest cash funds are susceptible to theft, misuse, and other loss. Failure to follow the controls of the imprest cash manual increases the risk that discrepancies, loss, or misuse of imprest cash will not be identified and resolved promptly. Moreover, the custodian's control and accountability are weakened when the custodian does not maintain physical custody of the account.

The imprest cash custodian was not aware of some of the requirements of the imprest cash manual.

Recommendations

We recommend that the BZA comply with the City's Imprest Cash Manual.



ATTACHMENT A

March 17, 2011

Loren E. Monroe, Auditor General
Office of the Auditor General
2 Woodward Avenue
Coleman A. Young Municipal Center, Room 208
Detroit, Michigan 48226

Dear Mr. Monroe:

The following presents the Department's response for the indicated findings and related recommendations and the review of the Board of Zoning Appeals operations and related recommendations in the March 11, 2011 Audit of the Board of Zoning Appeals, as prepared by the Office of the Auditor General.

Review of Board of Zoning Appeals Operations and Related Recommendations

Department's Response:

As stated to the Auditor General Department, the Board of Zoning Appeals Department is a member of the Interdepartmental Working Group along with the City Planning Commission, Building Safety Engineering and Environmental Department, Planning and Development Department and the Law Department. The Departments mentioned meet on a regular basis to review and discuss the zoning process and the zoning ordinance amendments.

Finding No. 1. Board of Zoning Appeals Did Not Publish Hearing Notices

Department's Response:

The Department is in full compliance with the notification requirements for public notification under the Detroit Zoning Ordinance, the State of Michigan Zoning Enabling Act and the State of Michigan Open Meetings Act. The Department publishes public hearing notices in the Detroit Legal News, all persons to whom real property is assessed within three hundred (300) feet of the boundary of property in question at the address



given in the last assessment toll, notices are provided to applicants to post on the property in question, notice is given to community organizations in at least three hundred feet (300) of the property in question and to the appropriate city departments at least fifteen days prior to the scheduled public hearing date before the Board of Zoning Appeals.

The Department will continue to maintain compliance by updating its procedure in keeping up with the State of Michigan Zoning Enabling Act.

Finding No. 2. Cash Receipts Were Not Accurately Reconciled to the General Ledger

Department's Response:

The Department's role as stated by the Audit Report relative to cash receipts not being accurately reconciled to the Department's general ledger is to monitor the revenue received by the Detroit Resource Management System (DRMS) to the Department's in house log book. That is exactly what the Department does on quarterly basis; monitor the funds received by the Buildings Safety Engineering and Environmental Department and the Accounts Payable section of the Finance Department with the DRMS report.

Although the Department does not receive any cash directly, the Department will meet with the City Treasurer's office, Detroit Resource Management System (DRMS) staff, Accounts Payable section of the Finance Department and the Buildings Safety Engineering and Environmental Department to ensure that credit card and cash receipts are adequately reconciled.

In conclusion, the Department would recommend that all receipts included the applicant's name, the address of the property, document/receipt number (SLU) and the amount of the credit card reduction for each case/property separately and received them in a timely manner. Notwithstanding the fact that final accounting is the responsibility of DRMS, because the Department only monitors the revenues received for the Department.

Finding No. 3. Inadequate Segregation of Duties Over Voucher Disbursements

Department's Response:

As stated in the Audit Report the lack of adequate staff to properly segregate duties is caused by lack of staff. However the employee that's responsible for ordering supplies and equipment is not solely the employee who also receives the supplies and equipment. In addition, since our last audit finding the Department has been diligently working on separation of duties within the voucher disbursement duties of our department.

Although the Department is limited in staff it is our goal to continue to undertake better control over our voucher disbursements, while complying with the separation of duties to the best of our ability.



In addition the Department will comply and provide DRMS training to one (1) other staff person.

Finding No. 4. The Board of Zoning Appeals Did Not Fully Comply with the Imprest Cash Manual

Department's Response:

The Department's imprest cash amount was short eighty-three cents. The Department has a copy of the manual and is aware of what the imprest manual states about cash shortages. The employee responsible for the shortage since the audit has restored the eighty-three cents and the imprest cash amount at present is two hundred dollars (\$200.00).

The BZA has conducted quarterly independent audits of our imprest cash funds and we supplied them to the auditor. The Department has the copies of the audits available for review. The imprest cash manual states, "The audit record must include date, name and signature of the auditor and must include.....cash on hand, invoices for which check request has been submitted for reimbursement, and reimbursement check request in process. Our audits comply with the manual.

The BZA was not aware that only the custodian and alternate custodian should only have access to the imprest cash. The Department has looked over the imprest cash manual numerous times and has yet to find that finding in the manual. If that is accurate our department will comply with the manual effective immediately. However, when the Department questioned the auditor about the process of only custodians having access to imprest cash the auditor stated that the process wasn't clearly stated in the book.

Therefore the Department will fully comply with the recommendation and designate the Executive Secretary as the Department's additional alternate custodian with the Finance Department.

In conclusion, the Department would sincerely like to thank Mrs. Jill Kilbourn, auditor, for her professionalism in conducting this 2008-2010 audit.

Respectfully,

A handwritten signature in black ink, appearing to read "Tyrone U. Miller". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Tyrone U. Miller, Director
Board of Zoning Appeals