



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Inspector General

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DATE: November 5, 2021

SUBJECT: Illegal installation of lighting on Central between 1st and 8th streets by the City of Albuquerque.

FILE NO: 21-0053-C

INVESTIGATOR: Melissa R. Santistevan 

STATUS: Closed

Informative Case Synopsis

On October 7, 2021, the Office of Inspector General “OIG” received information alleging the illegal installation of lighting on Central between 1st and 8th streets by the City of Albuquerque. The allegation stated that the “installation itself was wholly wasteful, costing upwards of a quarter-million dollars and adding nothing in the way of utility development, and that attempts at keeping it in place take the waste to a truly disturbing degree. The complaint addressed potential fraud and/or abuse given that significant money, time, and effort has already been devoted --or perhaps diverted— and that the subsequent efforts to maintain it rise to the level of willful violations and active incidents of waste, fraud, and abuse.” Upon receiving this complaint, the OIG determined that the allegations did rise to the level of potential fraud, waste or abuse, initiated a case and began a fact-finding investigation. This complaint was investigated and determined not to be fraud, waste or abuse.

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

While conducting our fact-finding investigation, the OIG Investigator reviewed the information provided in the complaint, reviewed invoices and emails, researched ordinances, regulations, physically inspected the installation, and requirements for

lighting along with possible resolutions. OIG conducted information gathering interviews with Engineers, Lighting experts, city employees and management. While performing our fact-finding investigation, OIG discovered that the City of Albuquerque's Integrated Development Ordinance (IDO) posted to the Planning website only applies to private land within the City of Albuquerque and that it does not explicitly state what is or is not applicable under the Ordinance. OIG did identify Ordinance 14-16-1-4 related to the applicability of the IDO. 14-16-1-4 specifically states:

1-4(A) This IDO applies to all private land in the City, and the owners and occupants of all land in the City are required to comply with the regulations of this IDO applicable to the zone district in which the property is located, except as noted in this [Section 14-16-1-4](#).

1-4(A)(1) Development after the Effective Date of this IDO

All development after the effective date of this IDO is subject to IDO standards.

1-4(A)(2) Development prior to the Effective Date of this IDO

Development that existed prior to the IDO is subject to timeframes established for compliance with IDO standards, including but not limited to standards for nonconformance in [Section 14-16-6-8](#) (Nonconformities), to be calculated from the effective date of this IDO.

1-4(A)(3) Approvals Granted prior to the IDO

See [Section 14-16-1-10](#) (Transitions from Previous Regulations).

1-4(B) This IDO is not applicable to federal activities or development on federally-owned lands where either the federal government has retained from the time of statehood or subsequently obtained the right to legislate in relation to such lands or the State of New Mexico has ceded jurisdiction to legislate back to the United States in relation to such lands. Private activities or development for private purposes on such lands shall be subject to this IDO.

1-4(C) This IDO is applicable to City activities or development on properties owned or leased by the City.

1-4(D) This IDO may not be applicable to state or governmental activities or development on lands owned by a state or governmental or quasi-governmental entity, to the extent the State of New Mexico has explicitly exempted them from the operation of local land use regulations.

The fact-finding investigation led to the discovery that there are no regulations over what the City can or cannot install on a public right of way. The public right of way extends from back of sidewalk on one side of the road to back of sidewalk on the other side of the road. Our inspection and observation revealed that the lighting was installed between decorative lamps in the public right of way.

The allegation the City illegally installed lighting on Central between 1st and 8th streets in direct violation of the City's IDO has been determine to be unfounded given Ordinance 14-16-1-4 and the fact that the City's installation was within the public right of way.

The complaint also alleged willful violations of fraud and/or abuse by City employees through attempts to cover up the improper installation given that significant money, time, and effort has already been devoted --or perhaps diverted. During our fact finding, we did not find evidence of willful violations of fraud or abuse by City employees, however, we did find that the individuals we spoke to were unfamiliar with the ordinances and regulations governing installations in a public right of way. Unfamiliarity with matters not directly related to each employee's position resulted in the complainant being passed from department to department which led the complainant to allege a possible cover up. As a result of departmentalization within the City, employees in each department specialize in the area for which they work and if an issue arises that is not in their area of expertise they are quick to refer the matter to another person or department. The OIG has determined that the allegation of willful violations of fraud or abuse are unfounded.

Based on the information obtained during our fact-finding investigation, the allegations in the complaint appear to be unfounded and as such this case is being closed.