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Investigative Informative Case Synopsis

FILE NO: 23-0036-C

SUBJECT MATTER: Violation of the IDO Due to Applicant not Receiving Correct Information from the ONC which Resulted in Failure to Provide Notification to Neighborhood Organizations

STATUS: Final

INVESTIGATOR: J. O'Connell

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November 30, 2023
Date of Completion

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December 14, 2023
Date of Approval

DISTRIBUTION:

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EXECUTIVE SUMMARY

According 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.

On April 24, 2023, the Office of Inspector General (OIG) received a complaint alleging that there are issues with the City of Albuquerque (City) and the Office of Neighborhood Coordination's (ONC) interpretation of notification requirements to neighborhood associations and coalitions on different types of land development issues.

According to the referring party (RP), on April 20, 2023 there was a City Zoom-recorded Environmental Planning Commission (EPC) meeting. The RP, who is an officer of the ONC-recognized neighborhood association, Vista Grande Neighborhood Association (VGNA), attended this meeting. An individual who, according to the RP, is a land-issue representative for the ONC-recognized West Side Coalition of Neighborhood Associations (WSCONA) was also in attendance. EPC hearings take place the third Thursday of each month. All hearings and meetings are announced in the Albuquerque Journal. The RP stated that RP and the representative for the WSCONA had attended the meeting to hear about another matter on the agenda. RP explained it was during this meeting that they learned of the major site-plan amendment.

The RP stated that those who attended this meeting found out that the City's ONC had informed the applicant that no neighborhood organizations needed to be notified prior to the April 20, 2023 meeting. The RP stated that this is incorrect and that it fits a pattern of attempts by the ONC to exclude neighborhood organizations from land use decision making processes.

The OIG determined that the allegations contained elements of fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if the ONC properly notified the associated neighborhood organizations in this specific land use matter as required by the IDO.

The OIG spoke with the Manager for the ONC (M1), with the EPC contact for the Planning Department (E1), and with the referring party. The OIG reviewed the Integrated Development Ordinance (IDO) and the Neighborhood Association Recognition Ordinance (NARO). The OIG also reviewed emails provided by M1, and the Official Notice of Decision (NOD), which came from the April 20, 2023 EPC meeting.

As a result of the investigation, the OIG was able to substantiate that the proper neighborhood organizations were not notified of the proposed site plan – major amendment to be discussed at the April 20, 2023 EPC meeting. The OIG investigation revealed that in this instance a violation of the IDO occurred, as the ONC told the applicant that there were no neighborhood organizations that needed to be notified prior to the April 20, 2023 EPC meeting. However, the OIG cannot

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substantiate that there is a pattern of attempts by the ONC to exclude neighborhood organizations from land use decision-making processes because the OIG does not have evidence to substantiate this claim.

ABBREVIATIONS

City:	City of Albuquerque
E1:	EPC contact for the Planning Department
EPC:	Environmental Planning Commission
IDO:	Integrated Development Ordinance
M1:	ONC Manager
NARO:	Neighborhood Association Recognition Ordinance
NOD:	Official Notice of Decision
OIG:	Office of Inspector General
ONC:	Office of Neighborhood Coordination
RP:	Referring Party
VGNA:	Vista Grande Neighborhood Association
WSCONA:	Westside Coalition of Neighborhood Associations

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint:

On April 24, 2023 the OIG received a complaint alleging that the City's ONC had informed the applicant that no neighborhood organizations needed to be notified prior to the April 20, 2023 meeting. The referring party (RP) stated that this is incorrect and that it fits a pattern of attempts by the ONC to exclude neighborhood organizations from land use decision-making processes.

Background:

The ONC helps create neighborhood associations, maintains neighborhood association contact information, and responds to neighborhood public notification requests from permit applicants, developers, and the general public. As stated on their website, the ONC provides a wealth of services and resources both to neighborhood associations and neighborhood coalitions, but also to the general public.

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Over the years, the number of neighborhood associations and coalitions that the ONC serves has grown significantly to nearly 200 groups, representing all four City quadrants and nine council districts citywide. The Neighborhood Associations are a cross-section of individuals who have one goal and purpose: to make their neighborhoods safer, cleaner, more aesthetically pleasing, economically growing, and overall better places to live, work, and play.

The Integrated Development Ordinance (IDO) includes zoning and subdivision regulations to govern land use and development within the City of Albuquerque and establishes the City's system of planning.

Before an application is submitted to the City, Neighborhood Meetings may be required by the IDO. Neighborhood Meetings are intended as an early, informal opportunity for Neighborhood Associations and Coalitions to learn about proposed development and for neighbors and developers to discuss opportunities and address any concerns before the application is finalized and sent into the City's review and approval process. The ONC must follow the IDO.

INVESTIGATION

Allegation:

The ONC did not properly notify the Neighborhood Associations of this land use meeting as required by the IDO. There is a pattern of attempts by the Office of Neighborhood Coordination (ONC) to exclude neighborhood organizations from land use decision-making processes.

Authority:

Integrated Development Ordinance (IDO)

6-4 (B) Pre-Submittal Neighborhood Meeting

6-4 (B)(1) For applications that meet any of the following criteria, the applicant shall offer at least 1 meeting to all Neighborhood Associations whose boundaries include or are adjacent to the subject property no more than 90 calendar days before filing the application. In such cases, project applications will not be accepted until a pre-submittal neighborhood meeting has been held, or the requirements for a reasonable attempt in Subsection (3) below have been met.

6-4(B)(1)(a) [Table 6-1-1](#) requires a meeting with a neighborhood to be offered for that type of application.

6-4(B)(1)(b) The application is a Site Plan - Administrative proposing a new building or multiple new buildings that include a total of any of the following:

1. More than 100 multi-family residential dwelling units.
2. More than 50,000 square feet of non-residential development.

6-4(B)(2) If the project is not located within or adjacent to the boundaries of any Neighborhood Association, the applicant shall offer at least 1 meeting to all Neighborhood Associations whose boundaries include land within 1,320 feet (¼ mile) of the subject property. If no Neighborhood Association has land within that distance of the subject property, no pre-submittal neighborhood meeting shall be required.

6-4(B)(3) A meeting request shall be sent to the 2 representatives on file at the ONC for all applicable Neighborhood Associations via Certified Mail, return receipt requested, or via email. Either method constitutes a reasonable attempt to notify a Neighborhood Association of a meeting request. The requirements of Subsection [14-16-6-4\(K\)\(7\)](#) (Documentation of Good Faith Effort Required) also apply.

Neighborhood Association Recognition Ordinance (NARO)

§ 14-8-2-8 RESPONSIBILITIES OF THE ONC

(A) The ONC shall:

(17) Pursuant to § 14-16-6-1 of the IDO, notice shall be provided, which specifies requirements for mailed or electronic notice, posted signs, web postings, and/or published notice; the ONC shall provide to the permit applicant required recognized neighborhood association and/or recognized neighborhood coalition point of contact information

Analysis:

The OIG reached out to the Manager for the ONC (M1), who explained in an email dated November 14, 2023, that an administrative error on the part of the ONC is what led to the inadvertent omission of the VGNA in this case. M1 stated this was caused by a technical malfunction in the map tool used by the ONC to generate neighborhood contact information in response to developer requests for such information, but that this issue has since been corrected. M1 further explained in a subsequent email dated November 14, 2023, that the system error was due to an administrative mistake in how the map search was run, which the ONC discovered after the ONC also received an email from the RP and tested the map. M1 stated the map search was run incorrectly by a former ONC employee. The ONC utilizes the map on a daily basis and the issue was addressed with the former ONC employee. The ONC is able to ensure that map searches are performed correctly, and they have not experienced any additional errors since.

With regard to WSCONA not receiving notification, M1 provided the OIG with the following explanation:

“According to Neighborhood Association Recognition Ordinance (NARO) Section 14-8-2-4(B)(5) *For the purposes of notice, recognized neighborhood coalitions shall receive notice per the boundaries of member associations or groups only, and not for any individual members* (Italics mine.) In this case, the development in question was taking place on a parcel of property that was not within the boundaries of any recognized neighborhood

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association, and as such, there was neither a recognized neighborhood association nor a recognized neighborhood coalition to be notified.

The Vista Grande Neighborhood Association (VGNA) should nevertheless have received notice because it is located within 1,320 feet of the development property, but to clarify, the development itself was neither within the boundaries of VGNA nor within the boundaries of any member association of WSCONA.

The Integrated Development Ordinance (IDO) requires that if development or a project is not located within or adjacent to the boundaries of any Neighborhood Association, the applicant shall offer at least 1 meeting to all Neighborhood Associations whose boundaries include land within 1,320 feet (¼ mile) of the subject property. If no Neighborhood Association has land within that distance of the subject property, no pre-submittal neighborhood meeting shall be required.

In this case, the VGNA should have been notified about the development because it was taking place within that additional 1,320 feet required in the IDO, not because the development was within the VGNA boundaries. With that being the situation, WSCONA would still have not been entitled to notice in this case because the development was not happening within the boundaries of a member association of the coalition.”

M1 further explained in an email dated November 15, 2023 that if a recognized neighborhood association is to receive developer notice, the development itself must be located within or directly adjacent to the association’s boundaries. If the association is a member of a recognized neighborhood coalition, the coalition would also be eligible to receive developer notice. M1 stated:

“In this specific case, the development in question WAS NOT within or adjacent to the boundaries of any recognized neighborhood association. However, it was within 1,320 feet of a recognized neighborhood association, and per the IDO, if the development is not within or adjacent to the boundaries of a neighborhood association, the developer nevertheless has to offer at least 1 meeting to all neighborhood associations whose boundaries include land within 1,320 feet (¼ mile) of the subject property, which in this case was Vista Grande NA.”

M1 stated it is M1’s understanding that there have been issues with neighborhoods receiving notice from developers; however, it is important to clarify that the ONC does not have oversight over whether or not a developer/permit applicant sends notice to neighborhood associations as per the IDO, as the ONC is not the oversight agency for the IDO. M1 stated that falls to the Planning Department.

M1 shared that the ONC is charged with maintaining up-to-date and accurate contact information for all recognized neighborhood associations and recognized neighborhood coalitions, and sending that information to permit applicants and developers as part of the overall permit application process that is mandated by the IDO.

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The ONC stipulates in its response documentation to permit applicants/developers that the neighborhood contact information sent by the ONC is valid for one (1) calendar month, due to the frequency of changing contact information. M1 stated that most neighborhood associations and coalitions are extremely diligent about keeping their contact information current with the ONC, as it is a condition of City recognition, but there are occasionally times when an association does not update their information for any number of reasons. Until the ONC is notified that there has been a change in contact information, they use what is on file with their office. M1 stated that they encourage permit applicants/developers to check with the ONC regularly to ensure the ONC still has current contact information, but whether or not applicants/developers follow through on this is not something the ONC has the ability to track nor is it under the auspice of the ONC to mandate that applicants/developers actually do it.

Neighborhood associations and coalitions should therefore remain diligent about keeping their contact information up-to-date with the ONC so that they can receive notification about land use proposals in their area that meet the criteria of the IDO and the NARO.

Review of Official Notice of Decision

The OIG reviewed the Official Notification of Decision (NOD) that came from the April 20, 2023 Environmental Planning Commission (EPC) meeting. The NOD stated “On April 20, 2023 the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2019-002765 Case# SI-2023-00485 - Site Plan- Major Amendment”. The referring party was among those listed to be copied (cc) on the NOD.

The NOD also included information with regard to the appeals process, which states:

*“If you wish to appeal this decision, you must do so within 15 days of the EPC’s decision or by **May 5, 2023**. The date of the EPC’s decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.”*

The OIG reached out to the EPC contact for the Planning Department (E1) to inquire about any appeals to this decision. E1 stated there were no appeals received.

Discussion with the Referring Party

The OIG spoke with the referring party telephonically and the referring party confirmed that they did receive an email from M1 explaining that an administrative error occurred on the part of the ONC and that the VGNA should have been notified of the site plan – major amendment to be discussed at the April 20, 2023 EPC meeting. The referring party stated that the email they received from M1 did explain that per the NARO, WSCONA would not have received notice because the site in question is not within the boundaries of a member association of that coalition. This is per the NARO Section §14-8-2-4 (B)(5), which states:

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“For the purposes of notice, recognized neighborhood coalitions shall receive notice per the boundaries of member associations or groups only, and not for any individual members.”

The referring party stated that they found this to be an interesting interpretation of why WSCONA would not have been subject to receive notice. However, the referring party also confirmed that they did not file an appeal to the Official Notice of Decision (NOD) that came from the April 20, 2023 EPC meeting.

The OIG considered that the ONC is charged with maintaining up-to-date and accurate contact information for all recognized neighborhood associations and recognized neighborhood coalitions, and sending that information to permit applicants and developers as part of the overall permit application process that is mandated by the IDO. The ONC stipulates in its response documentation to permit applicants/developers that the neighborhood contact information sent by the ONC is valid for one (1) calendar month, due to the frequency of changing contact information. Until the ONC is notified that there has been a change in contact information, they use what is on file with their office.

As a result, neighborhood associations and coalitions should remain diligent about keeping their contact information up-to-date with the ONC so that they can receive notification about land use proposals in their area that meet the criteria of the IDO and the NARO.

Allegation Conclusion:

As a result of the investigation the OIG was able to substantiate that the proper neighborhood organizations were not notified of the proposed site plan – major amendment to be discussed at the April 20, 2023 EPC meeting. The OIG investigation revealed that in this instance a violation of the IDO occurred, as the ONC told the applicant that there were no neighborhood organizations that needed to be notified prior to the April 20, 2023 EPC meeting. However, the OIG cannot substantiate that there is a pattern of attempts by the ONC to exclude neighborhood organizations from land use decision-making processes because the OIG does not have evidence to substantiate this claim.

OBSERVATION AND RECOMMENDATION

Observation: Due to an administrative error on the part of the ONC in which the map search was run incorrectly by a former ONC employee, the proper neighborhood organizations were not sent notification of the proposed site plan – major amendment to be discussed at the April 20, 2023 EPC meeting.

Recommendation: The ONC should conduct a training, evidenced by a sign in sheet, to ensure that all staff are trained on how to run searches and pull data from the map tool utilized by the ONC.

Management Response: *The ONC held a training refresher on Wednesday, August 9, 2023 with all ONC staff to reiterate the process for correctly mapping and getting neighborhood data to respond to public notification requests, and all new staff will be trained on the process. A refresher training will be held annually for all ONC staff.*