



**OFFICE OF INSPECTOR GENERAL**  
*City of Albuquerque*

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**Investigative Informative Case Synopsis**

**FILE NO:** 24-0027-C

**SUBJECT MATTER:** Allegation of harassment by the Code Enforcement Division for the issuance of citations.

**STATUS:** Final

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*Christopher SAAVEDRA*  
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**CHRISTOPHER SAAVEDRA, EnCE, CIGI**  
**INVESTIGATOR**  
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April 24, 2024  
**Date of Completion**

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**MELISSA SANTISTEVAN, CIG, CIGE**  
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April 24, 2024  
**Date of Completion**

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**VICTOR GRIEGO, CPA**  
**ACCOUNTABILITY IN GOVERNMENT**  
**OVERSIGHT COMMITTEE CHAIRPERSON**

May 15, 2024  
**Date of Approval**

**DISTRIBUTION:**

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
- File**

## 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. The City of Albuquerque Office of Inspector General (OIG) conducts investigations, inspections, evaluations, and reviews in accordance with AIG standards.

On January 24, 2024, the OIG received an allegation stating that the referring party was being harassed by the Code Enforcement Division (CED) by receiving a total of seven (7) violations on their property from July 2023 – January 2024. The referring party stated that they believe that C1 either works for the CED or knows someone who works for the CED.

The OIG determined that the allegations contained elements of abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. Fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority that is contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts. The purpose of the investigation was to obtain and review the evidence and to determine if the evidence is consistent with concluding whether the allegation of abuse could be substantiated or not substantiated.

The allegation of harassment against the referring party by the CED could not be substantiated based on the evidence obtained during the course of the investigation, the CED followed the appropriate ordinances and policies. Additionally, the CED documented each identified violation with photographic evidence.

## ABBREVIATIONS

APD: Albuquerque Police Department  
C1: Citizen  
CED: Code Enforcement Division  
City: City of Albuquerque  
D1: City Department Director  
E1: City Employee  
E2: City Employee  
OIG: Office of Inspector General

## 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. The City of Albuquerque OIG conducts investigations, inspections, evaluations, and reviews in accordance with AIG standards.

### **Complaint:**

Alleged harassment by the Code Enforcement Division (CED). The referring party stated that they have received several violations from the CED from July 2023 – January 2024. The referring party stated that they believe that C1 either works for the CED or knows someone who works for the CED.

### **Background:**

On January 24, 2024, the OIG received an allegation stating that the referring party was being harassed by the CED by receiving a total of seven (7) violations on their property from July 2023 – January 2024.

Prior to the violations, the referring party stated on July 4<sup>th</sup>, 2023, their car broke down on the road. An individual citizen (C1) was behind the referring party as they attempted to move their car for about fifteen (15) minutes. After this incident on July 4<sup>th</sup>, 2023, C1 called the Albuquerque Police Department (APD) to report the referring party's family members riding all-terrain vehicles (ATV). The referring party stated that APD advised them that no violations had occurred and suggested filing a harassment claim against C1.

The referring party began to receive violations from the CED for various property violations beginning on July 19, 2023. The referring party stated that they believe C1 either works for the CED or knows someone who works for the CED. The referring party stated they spoke with an employee (E1) with CED about the violations. However, additional violations were issued on

August 2, 2023, August 15, 2023, September 7, 2023, December 11, 2023, December 20, 2023, and January 18, 2024.

The referring party stated the last person they spoke with was E2 with the CED, to which the referring party was advised that if the violations noted were not corrected then a fine would be issued. The referring party stated that they had an APD officer review their property, to which the referring party stated that the officer did not note any violations after a visual inspection of the property. The referring party stated that they believe they are being harassed by the CED as several properties in their neighborhood have similar potential violations that are not being addressed.

## INVESTIGATION

### Allegation:

Alleged harassment by the Code Enforcement Division (CED). The referring party stated that they have received several violations from the CED from July 2023 – January 2024.

### Authority:

#### 301.1 Duty to the Public

The City of Albuquerque is a service institution. In carrying out their assigned duties and responsibilities, employees must always remember their first obligation is to the general public. This obligation must be carried out within the framework of federal, state, and local laws.

#### 8-2-7-13 Articles not to Obstruct Sidewalks

It shall be unlawful for any person to place articles, goods, wares or items of any sort on a sidewalk or to allow vegetation to grow in such a manner as to obstruct or restrict the free use of the sidewalk by pedestrians. This section shall include but not be limited to newspaper stands, portable signs and benches.

#### 14-16-5-5(F)(2)(a) Parking Location and Design

The following standards apply to all low-density residential development in all zone districts except R-MC:

1. Driveways and off-street parking areas shall cover no more than 60 percent of the area of the front yard.
2. For single-family and two-family detached dwelling units, the maximum width for driveways and parking areas in the required front setback shall not exceed 22 feet wide. The width of any curb cut providing access to the driveway shall not exceed 16 feet.
3. For townhouse dwelling units, the maximum width for driveways and parking areas in required front setbacks shall not exceed 11 feet in width. Two (2) townhouse dwelling units may share a driveway centered on the property or unit division line with a maximum combined width of 22 feet.

The width of any curb cut providing access to the driveway shall not exceed 16 feet.

4. In Centers and Corridor areas identified in the ABC Comp Plan, as amended, tandem parking is allowed. A tandem parking space may be counted toward off-street parking requirements provided that both spaces are leased to, allocated to, or otherwise under the control of the same party.

5. Carports

- a. In the R-A, R-1, R-T, R-ML, R-MH, and MX-T zone districts, no portion of this structure may be located within 3 feet of a property line, and no building wall may be built within any required setback area.
  - b. Carports in a required front or side setback require approval by the ZEO pursuant to Subsection 14-16-6-6(A).
  - c. Carports are prohibited within any front yard in the following mapped areas:
    - i. Downtown Neighborhood Area – CPO-3
    - ii. Monte Vista and College View Historic District
6. Parking in any Residential zone district or for low-density residential development is prohibited on any portion of the front setback other than on a driveway

14-16-4-3(f)(15)(d) Parking of Non-Commercial Vehicle

All motor vehicles that are not parked inside a building must be operative and must not be wholly or partially dismantled. Inoperative and dismantled vehicles shall comply with the provisions of Article 8-5 of ROA 1994 Stopping, Standing, and Parking).

9-8-22 Maintain Premises Free of Litter

The owner of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

**Evidence:**

- Code Enforcement Division Policy and Ordinances
- Code Enforcement Division Photographs of Property and Violations
- Code Enforcement Division Posse Notes

**Analysis:**

The OIG reviewed information provided by the referring party included with their allegation submission which included copies of seven (7) violations from the Code Enforcement Division (CED) dated July 19, 2023, August 2, 2023, August 15, 2023, September 7, 2023, December 11, 2023, December 20, 2023, and January 18, 2024.

The OIG met with the CED Deputy Director (D1) and obtained the Posse notes for CED. The Posse notes is the system used by the CED to document inspections and interactions done by the department based on referrals received. The OIG identified the same seven (7) violations as noted above in addition to twenty-four (24) photos of the front property as evidence of the violations dated from July 19, 2023 – January 18, 2024. The OIG also reviewed the 311-call log from the Posse notes which identified five (5) documented calls reporting the referring party’s property in violation. The OIG confirmed with D1 that the CED is reactively driven by referrals and allegations submitted to their office. As such, any complaints that are received by the CED are followed up on for the validity of that complaint.

The OIG noted that the photos for July 19, 2023, substantiated the violations noted in the “Notice of Violation” issued to the referring party by the CED. Specifically, the CED noted that “the area of the sidewalk that abuts the property was obstructed from a bush and vehicle”. The OIG noted that the sidewalk was obstructed by both the red truck and the bush that was protruding onto the sidewalk which violates 8-2-7-13. The OIG also noted that the same red truck was inoperable due to at least one (1) flat tire located at the rear passenger side of the vehicle, which violates 14-16-4-3(F)(15). Lastly, the OIG noted that the black car visible in the photograph was parked while protruding past the front of the house, therefore making it a front yard parking which violates 14-16-5-5(F).

The referring party was then issued a “Notice of Continued Violation Pre-Criminal Summons” on August 2, 2023, for the same identified violations that were not corrected as detailed in the corresponding photograph. The photographic evidence clearly shows the same red truck is inoperable due to the flat rear passenger side tire and protruding into the sidewalk. Additionally, the same bush is protruding onto the sidewalk.

The OIG reviewed the “Notice of Violation” issued to the referring party on August 15, 2023. This notice identified the property violated the same policies as the July 19 and August 2, 2023 notices. In this violation, the photographic evidence shows the same red truck and bush extending onto the sidewalk as detailed in the corresponding photograph. The red truck clearly shows that the rear passenger side tire is flat, making the vehicle inoperable while also extending onto the sidewalk along with the same bush. This resulted in the property violating 14-16-5-5(F) and 14-16-4-3(F)(15) again.

The CED inspected the property and issued a “Notice of Continued Violation Pre-Criminal Summons” on September 7, 2023, as the inspector identified that the same red truck continued to violate 14-16-4-3(F)(15) by being inoperable due to the same flat tire as noted in each photograph.

The CED inspected the property and issued a “Notice of Violation” on December 11, 2023, for the violation of 14-16-4-3(D)(20) for the inoperable red truck, this time also identifying that both the rear tires were flat, rendering the truck inoperable. Additionally, the CED identified that the property violated 9-8-22 by not maintaining the premises free of litter. At the time of the inspection, the CED identified a barbecue grill being stored on the sidewalk behind the red truck. The property continued to be in violation of 9-8-22 and 14-16-4-3(D)(20) and another “Notice of Violation” was issued on December 20, 2023.

The OIG’s investigation revealed that the CED issued a “Notice of Continued Violation Pre-Criminal Summons” on January 18, 2024. The violation noted that the red truck was inoperable. The rear tires are flat rendering the vehicle inoperable. This violates of 14-16-4-3(D) (20).

Additionally, the CED noted that the manner in which the black car was parked extended onto the walkway, violating 14-16-5-5(F).

The OIG identified that each violation that was issued to the property by the CED was supported with photographic evidence taken by each inspector at the time of inspection.

**Conclusion:**

Based on the evidence obtained, the allegation that the referring party was being harassed by the Code Enforcement Division (CED) could not be substantiated. The CED responds to complaints submitted to their office. The OIG verified that five (5) documented calls from July 19, 2023 – January 8, 2024, reporting the referring party's property in violation were noted in the Posse notes from CED. Based on the evidence obtained by the Office of Inspector General (OIG) during the course of the investigation, the CED confirmed each of the violations issued to the referring party from July 2023 – January 2024 on inspector observations and preserved through photographic evidence of the noted violations.