



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

DATE: March 31, 2022

SUBJECT: Alleged illegal lighting installation between Carlisle and Girard was wasteful and that the Planning department refused to cite the illegal lighting and the Department of Municipal Development refused to bring the lighting into compliance.

FILE NO: 22-0049-C

INVESTIGATOR: M. Santistevan

STATUS: Closed

Informative Case Synopsis

On March 17, 2022, the Office of Inspector General (OIG) received information alleging the City of Albuquerque (City) installed illegal lighting from Carlisle to Girard along Central Ave. under the direction of Councilor Davis. The allegation stated "Since the Inspector General's Investigation 21-0053-C Informative Case Synopsis did not mention the Carlisle to Girard installation, I hereby request an investigation. I request to remain anonymous.

This time I am going to keep it straightforward and simple so that you have no way to deny truth:

Illegal lighting was installed from Carlisle to Girard along Central Ave by the City of Albuquerque under the direction of City Councilor Pat Davis, as documented in the following news story:

<https://www.krqe.com/video/nob-hill-festoon-lights-unveiled/6495531/>(April 1, 2021)

The lighting is illegal for reasons that follow from the City's Integrated Development Ordinance available on their website:

https://documents.cabq.gov/planning/IDO/2020_IDO_AnnualUpdate/IDO-2020AnnualUpdate-2021-07-16-EffectiveDraft.pdf

14-16-1-4(C) "This IDO is applicable to City activities or development on properties owned or leased by the City."

14-16-5-8(D)(2) "No light source for any outdoor light fixture shall be directly visible from any public right-of-way or any adjacent property"

Please see the attached picture of the party lights strung between streetlamps.

Since streetlamps already illuminate the area, the addition of party lights was wasteful.

Since shielding the party lights (to bring them into compliance) would remove them from view, and cost money to do so, the only possible remedy which does not involve more waste, is their total removal.

Of course there was abuse and fraudulence along the way, if the Inspector General is interested in adding it to the case (NOTE I did not say "adding TO it"). The Planning Department refused to cite the illegal lighting, and the Department Municipal Development refused to bring the lighting into compliance.

But the gross amount of waste should suffice.”

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.

Allegation 1: The City illegally installed lighting on Central between Girard and Carlisle in direct violation of the City's IDO.

The OIG could not substantiate allegation 1. Additionally, the City has installed decorative festoon lighting in various public right of ways around the City of Albuquerque and the installation of such lighting in the public right of way is not in violation of the City's IDO.

Allegation 2: The addition of party lights was wasteful given that street lamps already illuminate the area.

The city maintains that the installation of the festoon lighting was to create a safe and secure environment where citizens could enjoy the high traffic area.

Allegation 3: The Planning Department refused to cite the illegal lighting.

Our fact-finding investigation disclosed that the IDO relates to private property within the City of Albuquerque. The IDO does not apply to public right of ways. Given the fact that the IDO does not apply to the public right of way, the OIG could not substantiate a violation that would require citation.

Allegation 4: The Department of Municipal Development refused to bring the lighting into compliance with the IDO.

Our fact-finding investigation disclosed that the IDO relates to private property within the City of Albuquerque. The IDO does not apply to public right of ways. Given the fact that the IDO does

not apply to the public right of way, the OIG could not substantiate a violation that would require a remedy for compliance.

Based on the information obtained during our fact-finding investigation, the allegations in the complaint are not substantiated and as such this case is being closed.