



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Investigative Informative Case Synopsis

FILE NO: 22-0184-C

SUBJECT MATTER: Allegation of Code Enforcement failing to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk.

STATUS: Final

INVESTIGATOR: M. Santistevan

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October 5, 2022
Date of Completion

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Edmund Perea
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EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

October 19, 2022
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.

On September 30, 2022, the Office of Inspector General (OIG) received a tip hotline complaint allegation of Code Enforcement failing to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk. The OIG determined that the allegations contained elements of abuse through failing to enforce the City Ordinance and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if Code Enforcement failed to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk.

The OIG reviewed the City's Article 8, Albuquerque Weed and Anti-Litter Ordinance, the City's program for Problematic Properties, City Article 2 § 12-2-3, reviewed news articles, and spoke to a representative of the Code Enforcement Division.

As a result of the investigation, the OIG was not able to substantiate the allegation that Code Enforcement failed to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk.

ABBREVIATIONS

City: City of Albuquerque
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.

Complaint: The Code Enforcement Division failed to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk.

Background: The City of Albuquerque (City's) Code Enforcement Division conducts inspections of properties throughout the city to determine compliance with code requirements and, when necessary, notifies owners of observed ordinance violations and methods by which to correct those violations. Code compliance is achieved through a combination of education, resource and assistance referral, and enforcement. The Division also performs plan review functions for building permit applications and answers questions concerning zoning and land-use matters.

As the City experiences an increase in unhoused individuals, the need for services has also increased. The City contracts with businesses to provide these services. Heading Home is one such contractor.

Clients of Heading Home sometimes set up encampments on the sidewalk in front of the Heading Home building located on 3rd Street.

INVESTIGATION

Allegation: The Code Enforcement Division failed to equitably cite Healthcare for the Homeless as a nuisance property for their clients' encampments on the sidewalk.

Authority: City Article 8 § 9-8-5 DUTY OF OWNER, LESSEE, OR OCCUPANT.

It shall be the duty of any owner of any occupied or unoccupied lot or tract of land to cut the weeds and remove the cuttings or any accumulation of weeds to be removed as often as necessary in order to comply with the provisions set out in § 9-8-4.

City Article 8 § 9-8-8 MERCHANTS' DUTY TO KEEP SIDEWALKS AND PARKING AREAS FREE OF LITTER.

It shall be the responsibility of the person in charge of a place of business to maintain the sidewalk area adjacent to his place of business and his private parking area, if any, used by his patrons for parking, in a reasonably litter-free condition. If in the opinion of the Mayor, the amount of litter in

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said areas amounts to a nuisance due to odors or eyesore characteristics the Mayor shall notify the person in charge to provide adequate, approved litter receptacles located so as to be convenient to the patrons of the place of business and/or to parking areas. The person in charge of such business shall be responsible for providing said litter receptacles and be responsible for emptying such containers as often as is necessary to prevent their becoming a nuisance. In no event shall the litter located on sidewalks and driveways adjacent to a place of business be allowed to be swept into the gutters or streets of the city.

Article 2 § 12-2-3 CRIMINAL TRESPASS.

Criminal trespass consists of unlawfully entering or remaining upon the lands or property of another knowing that any consent to enter or remain has been denied or withdrawn by the person or persons lawfully in possession of the premises or after the request or demand to leave the premises by the authorized representative of the person or persons lawfully in possession of the premises.

Analysis: The City of Albuquerque’s Code Enforcement Division operates the Problematic Properties Program which focuses on properties that are a public nuisance for the neighborhood and community. These problems can include abandoned and substandard homes that are a continued drain on city resources structurally compromised buildings or those properties that are a HOT SPOT for criminal activity.

A review of the Problematic Properties Program by the OIG, reveals that this pertains to substandard properties and is not applicable to activities on the sidewalk in front of personal residences or businesses.

The OIG’s review of Article 8 known as the “Albuquerque Weed and Anti-Litter Ordinance” reveals that Business Owners have the responsibility to keep their property, parking areas, and the sidewalk free from weeds and litter. There is no responsibility for business owners to remove individuals or their encampments from these areas.

Under City code § 12-2-3 the Police Department has the authority to remove/redirect individuals on the sidewalks in front of personal residences and businesses. Once an individual is removed or redirected, the Solid Waste Department can be contacted to remove an encampment.

Based on our review of the ordinances, the OIG was unable to determine that the Code Enforcement Division had a responsibility to cite the business owner as a nuisance property for their clients’ encampments on the sidewalk.

Conclusion: The OIG was not able to substantiate the allegation that the Code Enforcement Division failed to equitably cite Healthcare for the Homeless as a nuisance property for their clients’ encampments on the sidewalk.

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