

Final  
Report

Allegations of Misconduct by  
Certain Commissioners of the  
Montgomery County Housing  
Opportunities Commission

OIG Report #15-004

December 2, 2014

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Montgomery County Maryland  
Office of the Inspector General

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# Report in Brief

## Allegations of Misconduct by Certain Commissioners of the Montgomery County Housing Opportunities Commission

December 2, 2014

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### Background

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The Montgomery County Housing Opportunities Commission (HOC) provides housing for persons of eligible income. Commissioners serve without compensation but are considered public employees, and they are subject to the County ethics law.

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### Why We Did This Inspection

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The OIG received information from the Ethics Commission regarding two individuals who served as HOC Commissioners during 2013.

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### What We Found

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We found that conflict of interest issues have arisen for at least two Commissioners on the Housing Opportunities Commission. One Commissioner's issues arose when his firm was part of the development team included in a proposal for the redevelopment of an HOC property submitted to HOC. The other Commissioner's issues were related to actions he took as a Commissioner that benefitted people with whom he had business and personal relationships. These Commissioners voluntarily resigned while the Ethics Commission and the Office of the Inspector General were looking into these matters. We also found that HOC lacks written policies and procedures on confidential information, interactions with staff, and gifts.

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### What We Recommend

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We recommend that HOC develop improved, written policies and procedures on ethics, confidentiality, Commissioners' involvement in HOC operations, Commissioners' interactions with members of HOC staff, and gifts. We also recommend that HOC Commissioners and staff receive ethics training when they join HOC and periodically afterwards.

# Allegations of Misconduct by Certain Commissioners of the Montgomery County Housing Opportunities Commission

## Introduction

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The Montgomery County Housing Opportunities Commission provides housing for persons of eligible income. Under State law, HOC has seven Commissioners, nominated by the County Executive and approved by the County Council, and Commissioners are appointed for five year terms. The Commission serves as the policy-making body of HOC. Commissioners serve without compensation but are considered public employees, and they are subject to the County ethics law.

This report addresses concerns regarding two individuals who served as HOC Commissioners during 2013. Both Commissioners (Commissioners 1 and 2) were professionals in the housing development industry. Both voluntarily resigned during the time that the Montgomery County Ethics Commission and the Montgomery County Office of the Inspector General (OIG) were reviewing the matters detailed in this report.

## Objectives, Scope, and Methodology

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The objective of our review was to inquire as to certain allegations received by the Ethics Commission. We also considered other matters as they came to our attention.

The OIG reviewed the documents and evidence provided by the Ethics Commission, as well as relevant HOC and Ethics Commission records, laws, regulations, policies, and

procedures governing HOC. The OIG reviewed hundreds of pages of documents, including e-mails, memoranda, meeting minutes, and other records, and listened to recordings of selected HOC meetings.

From May 19, 2014, to June 20, 2014, the OIG conducted interviews with eleven HOC employees. These included Commissioners and senior and junior staff. Prior to the OIG finalizing the inquiry regarding Commissioner 2, the Commissioner voluntarily participated in an interview.

Our inquiry was conducted in accordance with the inspection standards contained in the *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency (2012).

## Background

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In late 2013, the Ethics Commission provided the OIG with materials documenting its review of an HOC Commissioner's (Commissioner 1) participation as a subcontractor on the winning proposal for an HOC project. Review of this matter was initiated by the Ethics Commission, after a request for an advisory opinion was submitted by Commissioner 1 more than a year after he associated himself with a bidding contractor. Commissioner 1 resigned, effective November 2013, soon after having received the Ethics Commission's guidance.

In early 2014, the Ethics Commission provided the OIG with materials indicating a possible business relationship between another HOC Commissioner (Commissioner 2) and a firm that, with Commissioner 2's affirmative vote, had been selected to do work for HOC. The OIG initiated an inquiry in response to the complaint regarding Commissioner 2 in May 2014. Commissioner 2 resigned, effective July 2014.

We heard, but did not investigate, concerns that another Commissioner, who at the time of our inquiry was no longer a member of HOC, may have also been engaged in a separate matter that would have presented a conflict of interest. In the course of our inquiry, we developed evidence that an additional Commissioner (Commissioner 3) had received personal funds and gifts from Commissioner 2, which could be perceived as creating impairments to their impartiality and independence.

## Findings

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We found conflict of interest issues and a lack of certain policies and procedures at the Housing Opportunities Commission.

### **Finding 1: Conflict of Interest Issues**

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Conflict of interest issues arose for at least two Commissioners on the Housing Opportunities Commission.

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#### **Finding 1(a): Commissioner 1 faced a potential conflict of interest, when his firm was part of the development team included in a proposal submitted to HOC.**

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Commissioner 1 is an architect, and he became involved in this capacity in a proposal for the redevelopment of an HOC property.

The property, built in 1959, is a mixed use residential and commercial condominium in Wheaton. HOC owns its 162 residential efficiency apartments. These apartments serve households with incomes below 60% of the area's median income. A private company owns the commercial units, which are on the ground floor.

HOC issued a Request for Qualifications/ Request for Proposals in April of 2012. HOC planned to redevelop the property to include a mix of affordable housing, market priced housing, and commercial uses.

A firm owned by Commissioner 1 (a sole proprietorship) was named as a key provider of architectural services in a bid from a developer (Company A). Company A estimated that the cost of architectural design and supervision fees for the project would be \$1.4 million, and the total development costs would be \$43 million.

Commissioner 1 stated at a September 5, 2012 HOC public meeting that he was recusing himself from all HOC discussions and actions on the redevelopment project. Commissioner 1 told the Commission that he would not communicate with HOC staff or Commissioners

regarding the project, and he would not participate in Commission or Development & Finance Committee discussions or actions about it. Nonetheless, regardless of either the intent of Company A or that of the HOC staff, the inclusion of Commissioner 1 in the bid could have been expected to improperly influence HOC staff and Commissioners to favor Company A.

HOC staff recommended to the Commission that it select Company A. The Commission, without Commissioner 1's participation, voted on June 5, 2013 to award the work to Company A.

An HOC staff member told the OIG that HOC staff did not think that what Commissioner 1 had done was an issue, and that the staff recommended Company A purely on the merits. However, the Ethics Commission received an anonymous letter from an HOC employee stating that the participation of Commissioner 1's firm in the project bid made some staff members uncomfortable. The anonymous complainant also wrote that the complainant had expressed these concerns to the complainant's superiors, but that no action had been taken, and the complainant was discouraged from pursuing the matter.

Commissioner 1 wrote to the HOC Executive Director on July 31, 2013 that "In order to prevent a conflict of interest or the perception of a conflict, I approached the Commission Chair, as well as the Commission Staff Attorney, to determine if they felt this participation was appropriate. After review, all indicated that I and my firm were fully eligible to participate so long as I recused myself." The HOC Executive Director wrote to Commissioner 1 on August 5, 2013 stating that Commissioner 1's "broad recusal" allowed him to "proceed as the architect" on the project.

Commissioner 1's actions in relying on the advice of the Commission Chair and HOC staff regarding an ethics question were not consistent with HOC's "Administrative Guide for Commissioners and Staff" (Administrative Guide). Written in 2008, the Administrative Guide contains policies and procedures that govern the operation of HOC.

HOC's recent practice was that Commissioners would receive the Administrative Guide when they joined HOC, although the two Commissioners who were appointed in March of 2014 did not receive it. "The Handbook for Commissioners" from the National Association of Housing and Redevelopment Officials (NAHRO) was distributed to all Commissioners in March or April of 2014. It was not clear to OIG staff whether the NAHRO handbook was intended to be a substitute for HOC's Administrative Guide.

The Ethics section of HOC's Administrative Guide provides a four paragraph summary of the County ethics law and states,

"This description of the County's Ethics law is intended to provide a general overview only. In specific cases, the ethics law itself should be

reviewed and, where appropriate, a request for an advisory opinion or waiver made to the Ethics Commission.”

The Administrative Guide does not provide a citation for the County ethics law or otherwise indicate how to find it. Commissioner 1 wrote that it was HOC’s Internal Auditor who pointed out Chapter 19A of the County Code, which is the Code chapter governing Ethics, to him.

Commissioner 1 wrote to the Ethics Commission on August 13, 2013, requesting, “in an abundance of caution,” an advisory opinion “so there will be no doubt as to whether [his company] should be prohibited from participating” in the project. On September 23, 2013, the Ethics Commission, citing County Code §19A-12, informed Commissioner 1 that neither he nor his business could be a subcontractor on the project.<sup>1</sup> The Ethics Commission noted that although the ethics law provides that members of Commissions have an exception to the restrictions on outside employment for employment that was publicly disclosed before appointment, this exception did not apply to Commissioner 1, because the redevelopment project opportunity with Company A arose after he joined HOC.

Commissioner 1 resigned from HOC soon after having received the Ethics Commission’s guidance.

The Ethics Commission’s September 2013 guidance did not address what the ethics law would require if Commissioner 1 resigned. Subsequently, an HOC attorney wrote to the Ethics Commission acknowledging that Commissioner 1 faced restrictions under County Code §19A-13, “Employment of former public employees.”<sup>2</sup>

On October 1, 2013, the Ethics Commission’s Chief Counsel/Staff Director wrote to the Executive Director of HOC “[t]hat there are open questions of whether an ethics violation

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<sup>1</sup> County Code §19A-12(b): “Unless the Commission grants a waiver under subsection 19A-8(b), a public employee must not:

- (1) be employed by, or own more than one percent of, any business that:
  - (A) is regulated by the County agency with which the public employee is affiliated; or
  - (B) negotiates or contracts with the County agency with which the public employee is affiliated; or
- (2) hold any employment relationship that could reasonably be expected to impair the impartiality and independence of judgment of the public employee.”

<sup>2</sup> County Code §19A-13: “(a) A former public employee must not work on or otherwise assist any party, other than a County agency, in a case, contract, or other specific matter for 10 years after the last date the employee significantly participated in the matter as a public employee.

(b) For one year after the effective date of termination from County employment, a former public employee must not enter into any employment understanding or arrangement (express, implied, or tacit) with any person or business if the public employee significantly participated during the previous 3 years:

- (1) in regulating the person or business; or
- (2) in any procurement or other contractual activity concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility).

(c) Significant participation means making a decision, approval, disapproval, recommendation, rendering of advice, investigation, or similar action taken as an officer or employee. Significant participation ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption.”

occurred by an HOC member, whether an HOC member was induced into an ethics violation by a third party, and whether the integrity of a procurement process was compromised by ethics violations.”

After receiving a response from the HOC internal auditor, the Chief Counsel/Staff Director wrote to the HOC Chair that the Ethics inquiry was being closed and that “Ethics advice, by its nature, is entirely dependent on the facts presented to the person providing the advice. Thus, the facts presented must be memorialized along with the advice rendered on those facts. Without a writing, there can be no reasonable representation that meaningful advice was given.”

As of early September 2014, HOC and Company A were negotiating a Master Development Agreement and developing a redevelopment plan for the project. This is one year after the date the Developer Agreement was expected to be executed, and it is two months after the date the Final Development Plan was expected to be approved. According to a March 2014 letter from HOC’s Internal Auditor, “little progress” had been made, partly because of the need for Ethics Commission proceedings, the exploration of related potential development options, and immediate repairs needed. The Internal Auditor emailed in September 2014 that the strategy had changed, and staff has spent time in 2014 exploring the best redevelopment solutions.

**Finding 1(b): Commissioner 2 voted to award the redevelopment contract discussed in Finding 1(a) above to Company A, while he had a business relationship with Commissioner 1, who was participating in Company A’s bid.**

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Commissioner 2 wrote in a November 13, 2013 email that Commissioner 1 “literally does work for almost every affordable housing developer in the area (including me).” Commissioner 2 stated in a June 20, 2014 interview with the OIG that a company of his employed Commissioner 1 from mid-2012 through the end of 2013.

On June 5, 2013, Commissioner 2 voted to select Company A as the developer for the redevelopment project. Participation in this vote may have been a violation of County ethics law.<sup>3</sup>

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3 County Code §19A-11(a)(2)(E): “Unless permitted by a waiver, a public employee must not participate in... any matter if the public employee knows or reasonably should know that any party to the matter is... any business or individual that is a party to an existing contract with the public employee or a relative, if the contract could reasonably result in a conflict between private interests and official duties.”

**Finding 1(c): Commissioner 2 helped a second architect, with whom he had personal and business relationships, receive an HOC contract and expedited payments.**

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Soon after joining HOC, Commissioner 2 recused himself from a vote approving a contract with Company B, a company that provides architectural services, for preliminary work on an HOC project, because he believed he had a conflict of interest. Commissioner 2 stated in an email that "I recused myself once when we were approving an architectural firm where I had a small interest in a transaction with one of the firm's partners." Another email from Commissioner 2 stated that "a partner in a [contractor]... is a partner in entities (two LLCs) with ...me."

Meeting minutes reflect that the following month, Commissioner 2 voted along with the Commission majority to waive procurement policy in order to engage Company B as the project architect.

Commissioner 2 stated that he had asked an HOC attorney whether he had a conflict of interest related to Company B, and that the attorney told him he did not. There is no record of a written legal opinion on this matter, and there is no documentary evidence of this conversation ever having taken place. The HOC attorney does not recall this conversation. As was the case with Commissioner 1, this is inconsistent with HOC's Administrative Guide, which states that "in specific cases, the ethics law itself should be reviewed and, where appropriate, a request for an advisory opinion or waiver made to the Ethics Commission."

Commissioner 2 provided the OIG with a copy of what he called his "final agreement" regarding the two LLCs. Under the agreement, Commissioner 2 is still entitled to receive payments for some projects.

Two HOC staff members, one junior and one senior, told the OIG that Commissioner 2 had talked with them at a later date about Company B being paid additional money beyond what the contract provided. The senior staff member said that no commissioner at other organizations or at HOC had ever said anything like this to the staff member before. The junior staff member told the OIG that Commissioner 2 told the staff member that the Commissioner had been talking with a Company B principal over drinks, indicating a personal relationship between these two parties. The OIG was also told that the junior staff member felt pressured.

Commissioner 2 stated in the interview with OIG that after talking with the Company B principal about HOC payments, he told the HOC staff member that he thought Company B was owed money, and he asked the junior staff member to check into it.

Multiple staff members told the OIG that there were serious problems with Company B's performance on the project. One staff member indicated that HOC might have penalized Company B by withholding payments or attempting to recover damages from Company B, had it not been for Commissioner 2's relationship with the company. Although Company B

was not paid additional money, it received payment several months earlier than originally scheduled.

Multiple staff members said that during 2013, staff put Company B on a list of prequalified architects, to avoid a negative reaction from Commissioner 2.

Helping Company B in this manner may have been a violation of County ethics law.<sup>4</sup>

## **Finding 2: Lack of Certain Written Policies and Procedures**

HOC lacks certain written policies and procedures for Commissioners and staff relating to confidential information, requesting work from staff, and accepting gifts from each other.

### **Finding 2(a): In at least two instances, Commissioner 2 allegedly revealed information that may have been confidential in conversations with developers and brokers.**

County ethics law prohibits revealing confidential information.<sup>5</sup> HOC's Administrative Guide states that "A Commissioner must not disclose confidential information." Although we found no written HOC regulations or policies defining what information is to be kept confidential, HOC staff and a Commissioner reported that disclosure of certain information is contrary to agency policy.

One allegation received by the OIG was that Commissioner 2 revealed confidential information about a nonbinding offer HOC made in late spring or early summer of 2013 to purchase property. An HOC staff member wrote that "Upon being informed that HOC was the selected buyer, Commissioner [2] reportedly relayed the terms of our purchase – which were only discussed in closed sessions – to brokers he knew (a direct competitor of the broker for the seller) suggesting that the price offered was too high, which proved not to be true."

In the June 20, 2014 OIG interview, Commissioner 2 stated that he recalled talking to someone who said the property was overpriced, but asserted that it was after HOC had decided not to purchase the property. In response to OIG questions regarding whether it

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<sup>4</sup> County Code §19A-11(a)(2)(E), quoted above. County Code §19A-14(a): "A public employee must not intentionally use the prestige of office for private gain or the gain of another."

<sup>5</sup> County Code §19A-15(a): "a public employee...must not disclose confidential information relating to or maintained by a County agency that is not available to the public."

would be normal for him to ask brokers if a price HOC was offering was reasonable, he said yes, as part of performing due diligence.

A second allegation received by the OIG was that Commissioner 2 discussed confidential information with a developer. In a June 3, 2013 email, a developer indicated that he had received a phone call from Commissioner 2 about a potential deal HOC staff was negotiating with that developer. A senior staff member wrote, "At the time, staff had not even presented the discussion to the Executive Director." A senior staff member emailed the OIG that after talking with Commissioner 2, the developer offered a deal that was "disadvantageous to HOC." A staff member said that the HOC negotiating position was compromised and discussions were terminated for this transaction. Revealing this information may have violated the ethics law.

In the June 20, 2014 OIG interview, Commissioner 2 acknowledged having reached out to the developer, either through email or a phone call, in approximately June of 2013, and discussed the terms of the deal and acknowledged that he expressed to the developer that HOC staff's idea might not work.

We received and inquired as to additional allegations, but did not substantiate them.

OIG staff asked an HOC attorney what regulations or procedures required certain information related to real estate deals and procurement to be kept confidential, and the attorney wrote, "I don't think there is a specific provision that governs the confidentiality by Comm'rs and staff." The attorney continued, "It is expected that Comm'rs and staff will respect the confidentiality imposed by the closed session." HOC's Procurement procedures provide that information on closed bids be kept confidential for a time, but they do not govern real estate acquisitions.

The Chair stated that he repeatedly informed Commissioner 2 and the other Commissioners orally and in writing that information discussed in closed meetings was confidential. On January 3, 2013, the Chair emailed the Commissioners that "I want to remind you that we all agreed that any position that HOC takes outside of the agency needs to be discussed, vetted, and agreed by the Board." In a June 11, 2013 email to all Commissioners, the Chair wrote, "please keep this confidential just like any other real estate transaction." It appears that this email was sent after the instance in the second allegation, above, and it is not clear if it was sent after the first instance.

Commissioner 2 stated that he and other Commissioners had not received training on the rules that govern Commissioners' activities, and that if Commissioners are not supposed to talk with others about certain information, they should be told that. He stated that he does not know what information is confidential and that HOC's documents are not labeled "confidential."

In each of these cases, Commissioner 2's actions may have revealed confidential information and undermined HOC's ability to negotiate.

**Finding 2(b): Commissioner 2's involvement in day to day operations went against repeated HOC internal guidance.**

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Commissioner 2 was counseled orally and through email by the Chair that the Commissioners should not be involved in the day to day running of HOC, and that requests for information from staff should go through the Executive Director. The HOC organization chart shows the Executive Director reporting to the Commission, and all divisions reporting to the Executive Director. We found no written HOC regulations or policies making clear specifically what Commissioners' involvement should be in HOC operations.

Commissioner 2 repeatedly interacted directly with staff members below the level of Executive Director. For example, as stated above, Commissioner 2 talked with a staff member below the level of Executive Director about increasing payments to Company B for its work. Staff told the OIG that Commissioner 2 had asked to see drafts of letters that had not been finalized. Staff also said that Commissioner 2 demanded to and did participate on the committee evaluating bids for working on a redevelopment project discussed above.

Every person the OIG interviewed about Commissioner 2 stated that Commissioner 2 created an environment in which the staff felt belittled and intimidated. Multiple staff members reported that Commissioner 2 treated staff in a hostile and derogatory manner, including in front of or to outsiders. A Commissioner stated that difficulties working with Commissioner 2 were not limited to HOC staff members; some Commissioners and a County Department Director had also been treated disrespectfully.

Commissioner 2 stated that he had received no training regarding what Commissioners' responsibilities were or what they were allowed to do to carry out their responsibilities.

**Finding 2(c): Commissioner 2 gave at least \$1,000 in gifts to Commissioner 3, creating a perceived impairment to their impartiality and independence.**

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Emails between Commissioner 2 and other HOC employees indicate that during 2013, Commissioner 2 paid for the cost of a plane ticket to St. Louis and residential moving services for Commissioner 3. During his voluntary interview, Commissioner 2 confirmed that he had paid these and minor ancillary expenses for Commissioner 3. He stated that he had not tried to influence Commissioner 3's votes, but viewed his actions as helping a friend who needed it.

## Conclusion

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HOC has been vulnerable to conflicts of interest. In addition to the issues discussed above, an HOC staff member publicly raised questions, shortly after Commissioner 1 resigned, regarding whether another former Commissioner's work may have put that Commissioner in a conflict of interest situation that was similar to Commissioner 1's. In a letter to the Ethics Commission regarding his intent to participate as an architect on the redevelopment project discussed above in Finding 1(a), Commissioner 1 stated, "I understand that other Commissioners have been in a similar situation in the past, which potential conflicts were handled in a similar manner." The OIG did not investigate the particular matters raised by these statements.

Improved written policies and procedures could help HOC Commissioners respond appropriately to potential conflicts of interest, as well as help the Commissioners understand what information is confidential, how to request work from staff, and what gifts are allowed. If these policies were easily found on the HOC website, potential applicants for Commission positions could review them, as they decide whether to apply.

The facts presented above indicate that Commissioners 1 and 2 claim to have relied on undocumented ethics guidance from an HOC attorney. Their actions, and, to an extent, the actions of HOC staff, were not consistent with HOC's Administrative Guide, which provides that the Ethics Commission should be contacted where appropriate, in specific cases. Written advice describing the situation to which the advice applies can serve to protect the interests of both the individual requesting advice and HOC.

The Administrative Guide was last updated in 2008 and needs to be revised. We were informed that HOC has discussed updating it, but the process has not progressed beyond discussions. As noted earlier, a handbook from NAHRO was distributed to all Commissioners in March or April of 2014. This handbook cannot serve as a substitute for the Administrative Guide: NAHRO is a national organization, and while its handbook may provide useful general information, it does not provide information specifically about HOC or about County ethics law.

## Recommendations

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The Commissioners whose conflict of interest issues we investigated are no longer Commissioners of the Housing Opportunities Commission. Accordingly, we make no recommendations related to the actions of these specific individuals.

### **Recommendation 1:**

HOC should develop clear policies and procedures regarding the applicable ethics laws, and HOC Commissioners and staff should consistently follow them. At a minimum, these should address:

- ethics training (a) that includes examples specific to HOC, (b) that is given to new Commissioners and staff when they accept their positions, and (c) that current Commissioners and staff receive periodically to refresh and update their knowledge,
- gifts that are inappropriate, with examples specific to HOC, and
- confidential information, including definitions and examples specific to HOC, as well as guidelines and expectations regarding the protection and use of confidential information.

### **Recommendation 2:**

HOC should develop clear policies and procedures regarding Commissioners' involvement in HOC operations and their interactions with members of HOC staff, and HOC Commissioners and staff should consistently apply them.

### **Recommendation 3:**

HOC should incorporate the changes recommended above into a revised Administrative Guide or a new manual of policies and procedures, which is distributed to all Commissioners and is displayed on the HOC website.

## Summary of Responses

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### **Response from HOC**

The response from the HOC Executive Director to the final draft report is included in its entirety in Appendix A.

The HOC Executive Director did not disagree with our recommendations. He stated that our recommendations to focus more time and attention with Commissioners on ethical standards to avoid perceived or actual conflicts of interest are recognized. He stated that HOC would reference the County Ethics law more specifically in materials provided to new Commissioners and would encourage participation in seminars and conferences that deal with ethics and standards of conduct. He also stated that he intends to work with the Commission Chair to coordinate revisions to the Administrative Guide or the development of a separate document to both clarify the relationships between staff and Commissioners and emphasize the importance of confidentiality in key areas of the agency's business.

The HOC Executive Director's response did not cause us to alter our findings or recommendations.

### **Response from Ethics Commission**

The response from the Ethics Commission Chair to the final draft report is included in its entirety in Appendix B.

The Ethics Commission Chair stated that the report accurately characterizes the activities of the Ethics Commission in bringing matters involving the two HOC Commissioners to the OIG's attention. She also stated that the Ethics Commission stands ready to assist in the implementation of our recommendations.

The Ethics Commission Chair's response did not cause us to alter our findings or recommendations.

# Appendix A: HOC Executive Director's Response



10400 Detrick Avenue  
Kensington, MD 20895-2484  
(240) 627-9400



Edward L. Blansitt

Inspector General  
100 Maryland Avenue  
Rockville, Maryland 20850

Re: Housing Opportunities Commission

Dear Mr. Blansitt,

Thank you for sharing your Final Draft Report concerning allegations of misconduct by Commissioners. It is clearly a deeply researched and considered report and its recommendations will provide a blueprint for some further activities within the agency.

Your primary recommendations to focus more time and attention with Commissioners on ethical standards to avoid perceived or actual conflicts of interest are recognized. We see the value of an orientation on these matters for incoming Commissioners and occasional refreshers. We have always included the County Ethics law in the Compendium of Laws applicable to the agency. In the future, we will reference it more specifically in the materials provided to new Commissioners and encourage participation in seminars and conferences with housing organizations such as NAHRO that deal with ethics and standards of conduct. This will help Commissioners avoid potential conflicts presented by outside business interests or interpersonal relationships.

The Commission seeks out Commissioners with expertise and knowledge in fields that are relevant to its functions. For that reason, many Commissioners have been architects, lawyers, mortgage bankers, accountants or government employees with procurement, auditing or human resource experience. Those backgrounds are invaluable to the agency in providing assistance in analyzing potential transactions or in administering operations. Many, but not all Commissioners are retired or nearing retirement and are not engaged in active development activities. Aside from the one instance referred to in your Report, we believe conflicts or perceived conflicts have been very rare and dealt with appropriately. However, the Report does provide an object lesson for Commissioners and staff to rely on in other instances that may occur in the future.

## Appendix A: HOC Executive Director's Response

The Commission and Executive Director and Senior Staff have a good relationship. In worksessions and meetings, the relationship between staff and Commissioners has been well delineated. The agency speaks with one voice and Commissioners understand that communication with employees is through the Executive Director. Of course, Commissioners can contact Senior Staff for clarifications or questions, but inquiries about policy positions or direction of activities flow through the Executive Director. There is substantial opportunity for discussion between staff and Commissioners in committee meetings and Commission meetings. Many of these sessions allow for open conversation among staff and Commissioners while differences in opinion are protected from public exposure. Contact with line staff by Commissioners outside of that context would be very rare unless authorized by the Executive Director. The Commission and its employees recognize well the difficulties that occur when this line of communication is not followed or a Commissioner does not act in accordance with it as evidenced in your Report.

That noted, there is continual and expected change within the staff and the body of the Commission so that regular review of those procedures and the need for respect of the confidential nature of some of the decisions of the agency should be the subject of reminders and review. We recognize that, while the subject of much communication orally in the past, it would serve the Commission well to include a written guide on these matters to both staff and Commissioners. While a written manual may not be able to cover every possible interaction, it will more clearly set the tone and serve as a better expression of the intentions of the parties. As Executive Director, I intend to work with the Chair to coordinate revisions to the Administrative Guide or the development of a separate document to both clarify the relationships between staff and Commissioners and emphasize the importance of confidentiality in key areas of the agency's business.

I will share the Final Report with the Commissioners and make it an element of discussion in a future meeting with them. I appreciate the opportunity to comment on the recommendations. The Final Report should serve us well as a resource for the Commission in confirming and developing operating methodologies between staff and Commissioner and for clarification of the responsibilities of Commissioners in the future.

Very truly yours,



Stacy L. Spann  
Executive Director

# Appendix B: Ethics Commission's Response



## MONTGOMERY COUNTY ETHICS COMMISSION

Kenita V. Barrow  
*Chair*

Mark L. Greenblatt  
*Vice Chair*

November 12, 2014

Edward Blansitt  
Inspector General  
Montgomery County

Dear Mr. Blansitt:

The Montgomery County Ethics Commission appreciates the opportunity to comment on the Confidential Final Draft of your report "Allegations of Misconduct by Commissioners of the Montgomery County Housing Opportunities Commission."

The report accurately characterizes the activities of the Ethics Commission in bringing to your attention matters involving two HOC Commissioners.

The Ethics Commission commends the Inspector General for conducting its investigation so that best practices for avoidance of conflicts of interest can be institutionalized at the HOC. The Commission stands ready if it is called upon to assist in the implementation of your recommendations.

Lastly, the Ethics Commission believes that the cooperative working relationship between the Office of Inspector General and the Ethics Commission, as demonstrated by the handling of the matters that are the subject of your report, will promote the efficient assurance of integrity of County operations.

Sincerely,

A handwritten signature in blue ink that reads "Kenita V. Barrow".

Kenita V. Barrow  
Chair  
Montgomery County Ethics Commission

Montgomery County Ethics Commission

100 Maryland Avenue, Room 204, Rockville, MD 20850  
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