

**OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE**



**Isabel Mercedes Cumming
Inspector General**

**Investigative Report
Synopsis**

OIG Case # 19-0084-I

Issued: February 5, 2020



OFFICE OF THE INSPECTOR GENERAL
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City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



February 5, 2020

Dear Citizens of Baltimore City,

The OIG investigated a complaint from a Baltimore City resident regarding the November 1, 2017 sale of fifteen City of Baltimore (City)-owned vacant lots to Bethel African Methodist Episcopal Church (Bethel AME). The complaint alleged that residents of the communities surrounding the area affected by the sale did not receive timely notification of the deal to allow for proper community input. The complaint also alleged that Comptroller Joan Pratt's vote to approve the sale to the church was a conflict of interest because of her longstanding membership of Bethel AME. The complaint went on to state that Bethel AME no longer allowed residents to use the lots for additional parking as they had done before the sale.

The mission of the OIG is to promote accountability, efficiency, and integrity in City government, as well as to investigate complaints of fraud, financial waste and abuse. The OIG investigation revealed that the necessary meetings to present the proposed sale and land development plans to the impacted communities were not held in a timely manner. While community outreach for City land deals should be completed prior to approval by the Board of Estimates (BOE), the Bethel AME sale was not presented for community engagement until after the sale was finalized by the BOE.

The OIG determined Comptroller Pratt voted in favor of approving the sale of City property to Bethel AME, a church in which she has maintained membership of and leadership in for decades. The investigation found administrative oversights in the Office of the Comptroller during the pre-BOE process led to Comptroller Pratt's vote in favor of the deal. The OIG found a reliance by the comptroller on her staff to properly vet BOE items for recusal. However, the comptroller acknowledged to the OIG that she should have abstained from the vote because it was a conflict of interest.

The OIG interviewed representatives of Bethel AME who stated that access will remain for residents to use the lots for additional parking, except on Sundays when the lot is needed for the influx of church members arriving for services. The OIG did not find any evidence contradicting Bethel AME's statement regarding resident access.

Property Sale to Bethel AME

On November 1, 2017, the BOE voted to approve a Land Disposition Agreement (LDA) between the Department of Community and Housing Development (DHCD) and Bethel AME for fifteen vacant lots located between 1301 and 1325 Etting Street and 505 and 509 West Lafayette Avenue, in the Upton community (Exhibit 1).

DHCD received an application from Bethel AME to purchase the properties through the Vacants to Value (V2V) program in May of 2017.¹ Some properties the City desires to sell are advertised on the V2V website; however,

¹ The V2V program aims to spur growth and reinvestment in Baltimore City by attracting new residents and businesses to develop vacant and abandoned City-owned property.

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DHCD officials said none of the lots the church applied to purchase were posted on the website at the time of their submission. The OIG received conflicting information regarding why the church applied if the City was not offering to sell the properties. The church stated that the City inquired with them if they would be interested in purchasing the land; however, DHCD employees said the church voluntarily contacted DHCD indicating an interest in buying the land. A DHCD official said the agency does not approach private parties to initiate the sale of vacant lots. Comptroller Pratt confirmed what DHCD employees told the OIG.

The lots had been vacant for over a decade and were used as auxiliary parking for residents of the surrounding community and members of Bethel AME. The baseline assessment value for a vacant lot in Baltimore City is \$1,000; however, the lots were sold to Bethel AME for \$1 each, \$15 in total. As justification for the price, Bethel AME submitted that the church had assumed a custodial role of the lots for 20 years and performed upkeep services, incurring over \$35,000 in expenses. The OIG interviewed representatives from DHCD and the Department of Real Estate who confirmed it is not unusual for the City to sell property for less than the assessed value, especially when the proposed buyer has paid expenses directly related to the property before the purchase.

The church proposed to develop the lots by changing them from unpaved, unofficial parking spaces into more formal and secure spaces by adding pavement and fencing. According to the LDA executed on November 1, 2017, the church was to commence construction within 90 days of the agreement and fully develop the parking lot within 12 months.

The OIG visited the lots on October 15, 2019 and found that construction has yet to take place. DHCD officials told the OIG that property ownership typically reverts to the City if development of the land is not completed within the 12-month period. Bethel AME officials told the OIG they cannot begin construction until ground rent issues are resolved. DHCD offered no explanation why Bethel AME has kept the land after acquiring it more than two years ago and failing to satisfy the terms of the agreement.

Community Meetings

Before a land deal goes before the BOE, the Real Estate Committee (Committee), which is comprised of members from Real Estate, DHCD, the Office of the Mayor, and the Office of the Council President, must vote to move the sale forward. One of the factors that the Committee considers is community input. Before City-owned land is to be sold for development, there must be community outreach and input to gauge how the sale will affect residents. Typically, community meetings are held for residents to speak out in favor of or against the proposed sale. Representatives from both the City and the buyer are usually present to address any concerns residents have. Committee members told the OIG that a sale will not move forward if community meetings have yet to take place.

In the case of the Bethel AME sale, the OIG found that the Committee approved the proposed sale without any community meetings taking place. The OIG located a checklist for the Committee's meeting on the sale and found an item labeled "Community Support" with the response as "N/A" (Exhibit 2). The OIG spoke with Committee members who said it was strange that the sale was able to move out of the Committee without confirming community meetings had taken place. In addition, the OIG met with representatives of Bethel AME, including the pastor, and the local leaders of the Upton and Marble Hill community associations. The OIG found community meetings were held on November 21, 2017, December 1, 2017 and January 17, 2019. All three meetings were held after the BOE had already voted to approve the sale on November 1, 2017.

Interviews with DHCD and Upton community officials revealed that Bethel AME was invited to present their development plans to the Upton Planning Committee on June 2, 2017. According to community officials, representatives from Bethel AME attended the meeting and expressed their interest in the vacant lots. However, the community official told the OIG that Bethel AME failed to submit finalized development plans and renderings of the desired parking lot for the meeting. Due to the lack of preparation, Bethel AME was told to

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return and present the plans to the UPC and Marble Hill Community Association at later dates, after they submitted the necessary documentation. The OIG was told that Bethel AME submitted their development plans in October of 2017 and presented those plans on November 1, 2017 and December 1, 2017. The investigation found that neither the community associations nor DHCD listed the June 2nd meeting as an official development presentation meeting for residents to provide feedback. In fact, the OIG found that the June 2nd meeting was not listed on official community association letters to the City or in DHCD memorandums about the sale.

Representatives from the church and community associations told the OIG that it is the responsibility of the City to ensure the community meetings take place before the sale can go before the BOE. The DHCD employee responsible for attending the community meetings in Upton did not recall why the meetings took place after BOE approval and confirmed that was out of the ordinary. Not one member of the Committee that the OIG spoke with recalled the question of community input being raised during their meeting. The investigation found that one community association distributed surveys to residents on November 21, 2017, three weeks after the deal was done. Surveys provided to the OIG indicated several residents opposed the deal; however, one community association leader stated that a majority supported the deal.

BOE Process in the Office of the Comptroller

Personnel in the Office of the Comptroller manage and administer the BOE processes and procedures. According to those interviewed, the majority of BOE preparation is a manual process. Employees type and re-type the agenda multiple times to make corrections. Several employees involved in the BOE process told the OIG that given the number of people creating, editing and reviewing the agenda, they believe there is ample opportunity to catch items that pose conflicts of interest for Comptroller Pratt.

The OIG interviewed members of the Comptroller's staff who work exclusively on BOE meeting preparation. The staff indicated the office follows the same weekly routine for each meeting, with the work cycle beginning on Thursdays after BOE submissions from City agencies are submitted by 11:00 a.m. Once all submissions are received, staff begins re-typing what was submitted by agencies into the BOE agenda format. All staff who work directly on the BOE are required to work until at least 6:30 p.m. to help get the agenda completed. On Friday, staff members clarify questions they have regarding agency BOE submissions. The draft agenda is completed and sent out to BOE members and senior staff (including staff of the Mayor and City Council President) by 4:30 p.m.

Over the weekend, the draft agenda is reviewed by multiple employees in the Office of the Comptroller including: the comptroller and her executive assistant; the deputy comptroller; two employees of the Department of Real Estate (Real Estate); the head of the Municipal Telephone Exchange (MTE); and two employees of the Department of Audits (Audits). On Monday, the Office of the Comptroller has two separate pre-BOE meetings. In the first meeting, staff goes over issues with or corrections to the draft agenda. Attendees in the first meeting include: the Lead BOE Technician (Lead Tech); and multiple employees of Audits, Real Estate and MTE.

The second meeting on Monday is attended by the comptroller and the same employees in the first meeting. In this meeting, Comptroller Pratt typically verbalizes to the Lead Tech on which items she will abstain from voting. After the meeting, the Lead Tech provides the comptroller's abstentions to the deputy comptroller to be announced the day of the BOE meeting. After edits and corrections to the draft agenda are finalized and retyped by the staff, it is then sent to be printed by the City's print shop so that hard copies can be given out to BOE attendees. The finalized agenda is also posted online for public view. Tuesdays are reserved for the staff to catch up on work and to accept protests the public may file against items on the agenda.

Finally, on Wednesday, the BOE meeting begins at 9:00 a.m. After the meeting, one employee uses an audio recording of the meeting and begins manually typing the minutes to be published online. Several employees

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involved in the BOE process told the OIG that given the number of people creating, editing and reviewing the agenda, they believe there is ample opportunity to catch items that pose a conflict of interest to Comptroller Pratt.

Oversight

Comptroller Pratt has been a member of Bethel AME since 1976. She is a member of the church's board of trustees, and her personal business, Joan M. Pratt, CPA & Associates, has prepared the church's tax returns in the past. Comptroller Pratt readily acknowledges that she has a conflict of interest with any vote involving Bethel AME that may come before the BOE. However, on November 1, 2017, the comptroller did not abstain from voting to approve the sale of City property to Bethel AME. The OIG reviewed the BOE minutes and video recording to confirm that the comptroller voted in favor of the sale.

In an article published in the *Baltimore Fishbowl* on July 19, 2019 (Exhibit 3), Comptroller Pratt spoke about the vote stating, "I always abstain on things that relate to Bethel because that's my church." According to the comptroller, her vote was an oversight because the BOE agenda listed Bethel AME with periods in the acronym and her staff did not include the periods in a search of a separate document. Comptroller Pratt told the OIG that she relies on members of her staff to ensure she has properly abstained from BOE items that present a conflict of interest. The comptroller also said that her staff should recognize items on which she is conflicted based upon those organizations and individuals she abstained from during previous BOE meetings.

Until April of 2019, the Lead Tech maintained a running list of individuals and businesses with whom BOE members held conflicts. This list was referred to as the "abstentions list" and was maintained by the Lead Tech who told the OIG they were responsible for checking the comptroller's abstentions list against BOE agendas. The Lead Tech flagged items the comptroller should abstain from and passed the information along to the deputy comptroller to announce during the BOE meeting. The Lead Tech was solely responsible for maintaining the abstentions list.

According to the Lead Tech, the abstentions list is no longer utilized because the abstentions became too varied. The Lead Tech found that the comptroller, and other BOE members, might have abstained from voting on an item involving a certain individual or organization during one BOE meeting; however, the member would not abstain from voting on a separate item, involving the same individual or business, during a subsequent BOE meeting. The Lead Tech now relies on all BOE voting members to provide a list of abstentions specific to each individual BOE meeting.

Comptroller Pratt told the OIG that she abstains from voting on items involving individuals, businesses, or other organizations for whom she has personally performed work, past or present, including any clients of her accounting firm. She went on to include organizations of which she is a member and any fellow members of those same organizations, past or present. The Lead Tech provided the OIG with a copy of the abstentions list (Exhibit 4). The OIG was able to corroborate the comptroller's statement regarding the church being listed as "Bethel AME" with no periods.

Comptroller Pratt told the *Baltimore Fishbowl* that her vote was an oversight due to her staff failing to search the abstentions list for "Bethel A.M.E." with periods in the name. However, several employees of the Office of the Comptroller told the OIG that even when the abstentions list was being utilized, the comptroller, and her staff, went page-by-page through the agenda during the Monday pre-BOE meetings. The OIG learned that the comptroller would verbally announce items she planned to abstain from during those meetings. Comptroller Pratt confirmed to the OIG that she regularly reads the agendas over the weekend and tells her staff in the Monday meetings from which items she planned to abstain.

The OIG learned that during the Monday meetings, the Lead Tech typically takes note of the items the comptroller will be abstaining from voting on; however, the Lead Tech was absent the Monday prior to the

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November 1, 2017 BOE meeting. The comptroller said she told an employee filling in for the Lead Tech that she was abstaining from the vote to sell the properties to Bethel AME; however, the employee did not properly notate the abstention and the information never made it to the deputy comptroller.

The OIG confirmed that the Lead Tech was on leave the Monday in question. The OIG interviewed employees who attended the meeting, none of whom recalled whether the comptroller proclaimed her desire to abstain from the vote.

Comptroller Pratt told the OIG that she did not have any influence over the property sale and no reason to vote in favor of it because BOE approval was never in doubt. Comptroller Pratt stated that because DHCD was the agency responsible for the sale, the comptroller said her office had no bearing on the sales price or the structure of the agreement with Bethel AME.

Residential Parking Concerns

The OIG spoke with one local resident who alleged that after acquiring the land from the City, Bethel AME no longer allowed the residents who live adjacent to the lots to use them for additional parking and rear access to their homes. The OIG spoke with representatives from Bethel AME and the community associations who said there is no issue with allowing residents to use the space to park their own vehicles.

The church only requested that residents move their vehicles on Sundays so church members could use the parking lots because it is difficult to find street parking in the area. Bethel AME officials expressed the desire to work together with the community for the mutual benefit of both residents and the church. The OIG did not find any indication that the church was no longer allowing residents to use the space for their personal needs.

Conclusion

The investigation found that the necessary community meetings used to gather input and address concerns of residents did not take place until after the BOE finalized the sale to Bethel AME. Because the meetings did not take place before BOE approval, any opposition or community concerns were not addressed before the deal was completed. The OIG found that the City never raised the issue of community support prior to the proposed sale going before the BOE.

The OIG's investigation determined that Comptroller Pratt voted in favor of selling City-owned land to her church, Bethel AME, and that it was a conflict of interest. The investigation revealed the comptroller relies on her staff to identify from which BOE items she should be recused. Comptroller Pratt agreed she should have abstained and that the responsibility for the voting oversight ultimately rests with her.

The investigation further found the comptroller's explanation to the *Baltimore Fishbowl* regarding her vote for the item be unclear. The comptroller said it was due to a failure by her staff to search a document for periods between the acronym "AME" that led to her vote. The OIG confirmed that the BOE agenda for the November 1, 2017 meeting had periods in-between "AME" and that the "document" Comptroller Pratt referenced was an abstentions list maintained by the Lead Tech, which did not have periods within the acronym. The Lead Tech told the OIG that the abstentions list has not been used since around April of 2019. Instead, members of the BOE must send the Lead Tech abstentions specific to a each BOE agenda.

Additionally, the comptroller told the OIG she verbally announced her intention to abstain from the BOE item during a pre-BOE staff meeting. Employees in the meeting did not recall the comptroller's proclamation. The confusion around the process by which abstentions are to be made and to whom the responsibility falls to ensure the comptroller abstains from conflicts of interest, led to the comptroller's vote for the sale of City property to Bethel AME. The OIG found that there is no abstentions list currently in place for members of the BOE. The

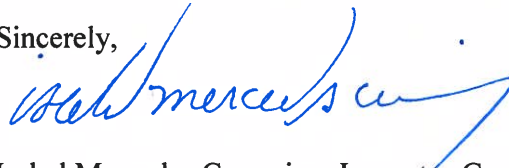
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absence of such a record creates confusion regarding which items a member of the BOE should recuse themselves from and could lead to more votes cast by mistake. The OIG recommends that a central list of abstentions be maintained for members of the BOE.

The OIG also found the allegation that Bethel AME would ban residents from using the lots for personal parking to be inaccurate. Community leaders and church officials told the OIG that no such ban has taken place and residents continue to use the parking lot when it is available. The church expressed the desire to work in unison with the community to ensure the parking lot remains an asset to residents and church members alike.

All OIG exhibits as well as responses from the Office of the Mayor and the Office of the Comptroller, as well as the OIG response to the Comptroller are attached to this letter.

Sincerely,



Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Bernard C. "Jack" Young, Mayor of Baltimore City
Hon. Brandon Scott, President, City Council
Hon. Joan M. Pratt, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Andre M. Davis, City Solicitor

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