

**PLANNING AND DEVELOPMENT
DEPARTMENT**

**AUDIT OF THE
DEVELOPMENT REVIEW FUND**

May 2001

Prepared by:
Internal Audit Division
Clerk of the Circuit Court

May 1, 2001

The Honorable Dick Van Der Weide,
Chairman
The Board of County Commissioners
Seminole County, Florida
1101 East First Street
Sanford, FL 32771

Dear Mr. Chairman:

I am very pleased to present you with the attached audit of the Development Review Fund.

Management responses have been incorporated into the final report. Based on those responses, we have concluded that management is responding to the conditions noted in the report; and that planned corrective actions, noted in the report, are underway. Internal Audit will conduct a follow up audit at a later date to ascertain if corrective actions taken by County management have been effective.

I would like to thank the men and women of the Planning and Development Department, for their cooperation and assistance throughout the course of this audit. The assistance is deeply appreciated. With warmest personal regards, I am

Most cordially,

Maryanne Morse
Clerk of the Circuit Court
Seminole County

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Attachment 1

Management's Official Response

Seminole County Planning and Development

Audit of the Development Review Fund

The Internal Audit Division of the Office of the Clerk of the Circuit Court has completed an audit of the Seminole County Development Review Fund. A member of the County Manager's staff suggested the audit. In addition, Internal Audit received an inquiry from a private citizen regarding the fund.

Purpose

The purpose of this audit was: 1) determine compliance with management's established procedures; 2) evaluate the fullness and effectiveness of those procedures; 3) evaluate compliance with county ordinances, Florida Statutes and the Seminole County Land Development Code; and 4) verify that fee collections are in accordance with the approved fee schedule.

Background

The Development Review Fund was established in 1987. The fund is used specifically to account for the revenue and costs associated with implementing Florida Statute 125.56 and enforcing the county building code. Florida Statute 125.56 (1) authorizes governments "... to adopt a building code to provide for the safe erection, alteration, and repair of any building within its territory." Furthermore, Florida Statute 125.56 (2) states in part that, "...the board of county commissioners of each of the several counties may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provision of this act and of any building code adopted pursuant to the terms of this act."

Attorney General's Opinion 89-28, dated May 10, 1989, provides additional guidance as to the allowable expenditures of the fund. The opinion stated that "...the inspection fees collected pursuant to Florida Statute 125.56 may only be used to defray the costs of inspection and enforce the provisions of Florida Statute 125.56 and the building code adopted by the county pursuant to that section. They may not be used for the purpose of funding the preparation, implementation, and enforcement of the comprehensive plan and the regulatory activities required by Florida Statute 163.3161." Florida Statute 163.3161 is the "Local Government Comprehensive Planning and Land Development Act."

The county is entitled to recover its costs in enforcing the county's land development code by using the fees assessed to developers for building inspection. As part of this

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audit, Internal Audit reviewed the revenue and expenses related to development review activities. The county also collects impact fees from developers on all new developments. Impact fees are assessed for:

- Any new construction;
- Mobile homes, unless a mobile home was on the site previously;
- Any addition or expansion which will result in new units: For example, additional residential dwelling units, additional square footage for offices, or additional pumps at a gas station; and,
- Remodeling or alteration, even if there is no expansion to the building which is being done in order to increase the number of units (i.e., converting a duplex to triplex); or to allow a change in use of the building (i.e. single family residence to an office).

The results of the audit are included in the report that follows.

Scope

The scope of this audit included a review of business practices relating to development review activities. We evaluated the system of internal controls, reviewed management's written procedures, evaluated compliance with those procedures, and verified that statutory and county codes are being met. We examined transactions and documentation for the period October 1992 through August 2000.

The audit included:

- Review of the procedures for processing applications for new building and review of the applicable fees assessed;
- Review of disbursements from the Development Review Fund to ensure that the charges are legitimate charges to the Development Review Fund;
- Review of the excess funds collected and being held in reserve;
- Review of the internal controls over the revenue collection and disbursement process;
- Interviews with County personnel;
- Review of the county land development code, administrative code, and other county ordinances; and,

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- Any other procedures considered necessary under the circumstances.

The audit was performed by Bill Carroll, Gail Joubran and Pat Tindel.

Overall Evaluation

It is our opinion that the system of internal controls over the assessment and collection of impact and building permit fees are inadequate. The county's procedures to access the fees do not ensure compliance with the applicable ordinances of Seminole County. Our tests (on a sample basis) of the county's records revealed that some developers were overcharged by the county by as much as \$152,097.70 while others were undercharged by as much as \$69,713.57.

These conditions indicate that the management controls are not functioning effectively or are non-existent. The following conditions require management's attention:

- Impact fees are not always assessed in accordance with county ordinances and the Seminole County Land Development Code;
- County policy does not require contractors or property owners to pay fees owed before the inspector reinspects a building project; and,
- Business practices have not been documented in the form of written policies and procedures.

Our findings and recommendations are included in the report that follows.

Finding No. 1***Impact fees are not always assessed in accordance with County Ordinances and Seminole County Land Development Code.***

An impact fee is a charge imposed against new developments to provide the county with the necessary funding to pay for the cost of capital facilities required as the result of growth in population. The county collects impact fees for roads, emergency medical services, libraries, schools, and respective fire districts. Seminole County Land Development Code and county ordinance requires county staff to calculate impact fees based on the application submitted by a developer.

Should a developer believe that a certain development would have a lower “impact” on the road network, the developer, at his own expense, is entitled to submit to the county an Alternative Road Impact Fee calculation. The study must comply with the criteria outlined in the Road Impact Fee Ordinance (90-10). Impact fees, including alternative impact fee calculations, are required to be collected prior to construction commencing.

Internal Audit selected a sample of 86 building applications (generating a total of \$2,820,722.39 in impact fees). We selected our sample from the Graphical User Interface (GUI) System and recalculated the fees based on the data contained within the GUI System. From the data, we determined the correct fees that should have been assessed per the County Land Development Code or per the Alternative Rate Impact studies performed.

Internal Audit found discrepancies in 29 of the 86 applications. On September 5, 2000, a written inquiry was forwarded to county staff for an explanation as to why Internal Audit’s calculations were different from those actually assessed. County staff replied:

1. Alternative rate studies were used to calculate the fees owed in ten of the applications (Permits Nos. 99-425, 99-426, 99-1472, 00-3098, 00-3097, 00-2348, 99-7238, 00-3883, 99-10597 and 00-4308). Because the files had not been adequately documented with how the rates had been established, staff initially believed that no alternative studies had been performed for these developments. After staff conducted additional research, it was determined that alternative rates were in fact used to assess the fees. The GUI System did not have any reference to the alternative rate studies.

While analyzing the discrepancies pertaining to two of the ten permits nos. (00-2348 and 99-7238), Internal Audit found an additional four permits with errors. Those four permits, (00-837, 00-842, 00-840, and 00-841) were calculated pursuant to an alternative rate study conducted July 1994 for car dealerships (in existence as of January 5, 1996). The taxpayer, Bill Heard Chevrolet, was

overcharged \$150,356.96, due to a rate input incorrectly into the GUI System. **(Refer to attached Calculation of County Impact Fees Schedule #1.)**

2. For permits Nos. 99-3318, 99-10529, 99-3313, and 99-1743 County staff informed Internal Audit that an incorrect land use code had been input into the GUI System. Although the GUI System showed an incorrect land use category, County staff correctly assessed the impact fee for Permit No. 99-1743. However, the developer that was issued Permit No. 99-3313 has still been undercharged \$401.66; Permit No. 99-10529 has still been undercharged \$237.19 and Permit No. 99-3318 has still been overcharged by \$7.70. **(Refer to attached Calculation of County Impact Fees Schedule #2.)**
3. Permits Nos. 99-3155, 99-7560, 99-8594, 99-3244 and 00-5089 county staff informed Internal Audit that each listed incorrect square footage in the GUI System. After a developer submits an application to the county, changes can be made to the plans, or the developer may submit new measurements. Although the GUI System had incorrect square footage, the staff still assessed (by manually calculating the fee) the correct impact fee due from the developer based on the actual square footage submitted with the plans. However, in addition to the impact fees, the County is required to add on a mandated .005 percent per square foot surcharge for radon and a .005 percent per square foot surcharge for certification. As a result of the incorrect square footage input into the GUI System, developers were undercharged by \$4,730.00 for these two surcharges. **(Refer to attached Calculation of County Impact Fees Schedule #3.)**
4. For Permit No. 99-9467, the developer was undercharged \$383.07, due to an incorrect rate calculation of the fire/rescue impact fee. **(Refer to attached Calculation of County Impact Fees Schedule #4.)**
5. For Permit No. 00-7327 impact fees for 45,740 total square feet of retail were calculated at an incorrect rate. Staff used the rate tier for 50,000 square feet to 99,000 total square feet for this project, instead of the rate tier assigned for square footage less than 50,000. Thus, the developer was undercharged for this project by \$51,000.10. County staff informed Internal Audit that a corrected impact fee statement is being processed for this project. **(Refer to attached Calculation of County Impact Fees Schedule #5.)**
6. For Permit No. 00-10427 county staff incorrectly used the rate tier for 300,000 square feet to 499,999 total square feet for this project, instead of the rate tier assigned for square footage between 100,000 to 299,999. Thus, the developer was undercharged for this project by \$10,304.00. **(Refer to attached Calculation of County Impact Fees Schedule #6.)**
7. For Permit No. 00-336 county staff incorrectly used the rate tier for 100,000 square feet to 200,000 total square feet for this project, instead of the rate tier assigned for square footage less than 100,000 square feet. Thus, the developer was

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undercharged for this project by \$7,068.94. **(Refer to attached Calculation of County Impact Fees Schedule #7.)**

Recommendation

1. The county should proceed with collecting the \$69,713.57 that was undercharged and refund \$152,097.70 that was overcharged.
2. All applicant files should be documented as to how the impact fees were calculated. Impact fee calculations should be reviewed and approved by management.
3. Procedures should be established to bill or refund overpayments and/or underpayments on a monthly basis.

Management Response

1. The County should proceed with collecting the \$69,713.57 that was undercharged and refund \$152,097.70 that was overcharged.
- A refund in the amount of \$150,357.02 was processed on December 19, 2000 to correct the over-assessment associated with permits #00-837, 00-840, 00-841, and 00-842.
 - A correction to the Impact Fee assessment in the amount of \$51,000.10 has been processed (September 2000) to correct the under-assessment associated with permit #00-7327.
 - A refund in the amount of \$1,733.04 will be processed to correct the over-assessment associated with permit #99-10597.
 - A refund in the amount of \$7.70 will be processed to correct the over-assessment associated with permit #99-3318.
 - A notice of Impact Fees due and payable in the amount of \$318.61 will be processed to correct the under-assessment associated with permit #00-2348.
 - A notice of Impact Fees due and payable in the amount of \$401.66 will be processed to correct the under-assessment associated with permit #99-3313.
 - A notice of Impact Fees due and payable in the amount of \$237.19 will be processed to correct the under-assessment associated with permit #99-10529.

- A notice of Impact Fees due and payable in the amount of \$383.07 will be processed to correct the under-assessment associated with permit #99-9467.
 - A notice of Impact Fees due and payable in the amount of \$10,304.00 will be processed to correct the under-assessment associated with permit #99-10427.
 - A notice of Impact Fees due and payable in the amount of \$7,068.94 will be processed to correct the under-assessment associated with permit #00-336.
2. All applicant files should be documented as to how the impact fees were calculated. Impact fee calculations should be reviewed and approved by management.
- For each “discrepancy” identified by the audit report, documentation has been developed and included in the appropriate project files that illustrate the actual calculation of County impact fees assessed against the project.
 - Policies will be established to 1) document any alternative rate calculations approved and utilized for a development project, and 2) document any special factors involved in the calculation.
 - As of April 1, 2001, non-residential impact fee calculations will require the review and approval of the financial manager.
3. Procedures should be established to bill or refund overpayments and/or underpayments on a monthly basis.
- Monthly reports will be re-instituted to enable management review of all fee assessments and collections.
 - A monthly reconciliation of all impact fee collections/receipts for each type of impact fee will be performed and forwarded to the Financial Manager for review. The report will include the identification of any assessment discrepancies and any associated billing adjustments and/or refunds as may be required.

In February of 2001, administration of the Impact Fee Program was transferred out of the Development Review Division and now reports to the Financial Manager under the Planning and Development Administration Division. The reassignment was initiated to improve customer service, both internally and externally, by providing for consistency in assessments via required management approvals of non-residential impact fee assessments and by enabling thorough evaluations of all impact fee collections via a monthly reporting system.

The pending reclassification of a vacant impact fee technician position to an impact fee program coordinator is anticipated to provide immediate policy and daily administrative oversight for the County's impact fee program administration.

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Implementation of the revised Impact Fee Program Administration has been targeted for April 2001.

Finding No. 2

County policy does not require contractors or property owners to pay for fees owed before the inspector reinspects a building project.

Seminole County charges a small fee, generally \$25.00, if a county inspector has to return to a job site to reinspect a building project. In some cases, a builder might owe the county several hundred dollars from reinspections, even though building department records indicate that new building permits are routinely issued to him. County policy does not require the applicant to pay for fees owed from previous inspections before issuing the applicant a new building permit. The county does not compile an accounts receivable report that can be used by staff to monitor the fees owed by an applicant so that building department representatives can enforce collection activities. Without this type of report, it is difficult for the building department to manage outstanding receivables.

We reviewed the building department's report entitled "Inspection Rejection Address Labels Report" which details the fees due by contractor/owner name and permit number. This report is available only under an old software system, no longer used. This report indicated that \$121,105.00 in fees was outstanding for the period January 1, 1996 to October 17, 1999. The division could not furnish the report for any fees owed after October 17, 1999; the date the county converted to its current system. County personnel stated that this new system did not have the capability to track these outstanding fees.

Documentation in the building department files indicates that at one time the division was sending out collection letters for the delinquent accounts. It is our understanding that the division is no longer sending letters out or pursuing any collection efforts.

Recommendation

1. Establish a policy that requires an applicant to pay for all money still owed the county before issuing a new building permit;
2. Request the information services division to run an exception report on a weekly or monthly basis listing those fees that are outstanding; and,
3. Establish a policy for writing off accounts and/or submitting accounts to a collection agency.

Management Response

1. Establish a policy that requires an applicant to pay all money still owed the County before issuing a new building permit.

Re-inspection fees are assessed against builders/developers if a County inspector has to return to a job site to “re-inspect” the construction associated with a particular permit. As a customer service, County policy allows new building permits to be issued even though fees associated with a previous permit/inspection, may remain outstanding. However, County policy does require payment in full of all outstanding fees prior to issuance of a Certificate of Occupancy or approval of a final inspection.

County staff is developing a policy to periodically identify outstanding fees owed to the Division in association with on-going construction/building projects and establish procedures to initiate collection activities.

Existing County policy maintains that no Certificate of Occupancy or Release of Power is to be issued/accomplished until all outstanding fees have been paid. For those developments where a Certificate of Occupancy or a Release of Power is not required, County staff has initiated a work order with the Information Services Division to modify the existing program application to periodically (monthly) “flag” and report on all outstanding fees. The report will then be used as a basis for notification of outstanding fees due and, as appropriate, subsequent collection activities based on the criteria established by the policies and/or procedures.

2. Request the information services division to run an exception report on a weekly or monthly basis listing those fees that are outstanding; and,

The County ‘s Information Services Division has received and is proceeding with a work order that will modify the existing GUI program to enable “outstanding fee reports” to be processed on a monthly (or other periodic) basis.

3. Establish a policy for writing off accounts and/or submitting accounts to a collection agency.

County staff is in the process of developing policies and procedures that will establish a process to periodically identify and initiate corrective action with regards to outstanding fees and/or delinquent accounts. The policies and procedures will establish timeframes for payment up to and including the use of an external collection agency.

The Building Division has targeted May 1, 2001 as the completion date for implementing new policies and procedures as they relate to re-inspection and/or outstanding fees owed the County.

Finding No. 3

Business practices are not documented.

Policies and procedures are written instructions prepared by management to document a process and provide a set of guidelines for employees to follow. The written procedures also are used to train new employees and as a reference guide. Internal Audit requested that the division furnish copies of its policies and procedures and any documents relating to its business processes.

The division furnished to Internal Audit the Land Development Code, County Ordinances, and various flowcharts assembled by its staff of the business processes. The division did not have written policies and procedures of the various business cycles. Without a set of policies and procedures, there are no guidelines prescribed by management for its employees. During the course of the audit, we identified certain areas where written policies and procedures are needed. The following are examples thereof:

1. Addressing: The Building Department does not have written operating procedures for tracking addressing fees that have been paid prior to submitting a permit application. Addressing fees are to be charged at the time addresses are initially assigned to the development. Internal Audit found instances in which paid address fees were not being input into the GUI database, giving the appearance that they were never paid. Also, the records show some commercial addresses were being charged a residential rate of \$6, instead of the commercial rate of \$11 and some residential addresses were charged the commercial rate.
2. Building Department: There are no written procedures in place to document how the division will accept applications, process permits, schedule inspections, collect fees, document its files, and control the integrity of data input into the GUI system. The department's various duties can be performed by anyone within the department, therefore lacking proper segregation of duties. For example, an important function of the department is the approval and issuance of Certificates of Occupancy. A Certificate of Occupancy is issued only after all fees and inspections have been paid. At present, anyone in the department is able to issue a Certificate of Occupancy. Too many individuals, who have little or no need, have complete access to the various menus and options in the system and can make changes to key data and records (e.g., fee charges, inspections required, inspection results, unpaid fees) that cannot be detected.

Recommendation

Establish written policies and procedures to document how the division will accept applications, process permits, schedule inspections, collect fees, document its files and control the integrity of data input into the GUI System.

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Management Response

The County is in the process of developing an operations manual that provides written policies and procedures detailing all of the development related services provided by the Building Division. The operations manual will contain detailed flowcharts of all development services and processes as well as establishing levels of authority and responsibility for all staff positions.

The County has targeted May 1, 2001 as the completion date for the operating manual.