

City of Austin



**A Report to the
Austin City Council**

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Sheryl Cole

Council Members
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Laura Morrison
Bill Spelman

**Office of the
City Auditor**

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AUDIT REPORT

Follow-Up Audit of the Historic Landmark Commission

August 2013



REPORT SUMMARY

We tested the two recommendations issued in our March 2010 audit of the Historic Landmark Commission and found that the Planning and Development Review Department partially implemented our first recommendation. In addition, we found that the Chair of the Historic Landmark Commission, with the support of Department staff, implemented our second recommendation.

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GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT TEAM

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August 2013



Audit Report Highlights

Why We Did This Audit

This audit was conducted as part of the Office of the City Auditor's (OCA) FY 2013 Strategic Audit Plan.

The initial audit included two recommendations: train and monitor staff to ensure sufficient guidance is provided to the Commission and prepare an annual report.

What We Recommend

We did not issue any additional recommendations.



For more information on this or any of our reports, email oca_auditor@austintexas.gov

FOLLOW-UP AUDIT OF THE HISTORIC LANDMARK COMMISSION

Mayor and Council,

I am pleased to present this follow-up audit on the Historic Landmark Commission.

BACKGROUND

The Office of the City Auditor conducted an audit of the Historic Landmark Commission (HLC) in March 2010 and issued two recommendations: to ensure that Historic Preservation Office (HPO) staff provides sufficient guidance to the HLC and that the HLC prepare an annual report and work plan as required by City Code.

OBJECTIVE AND SCOPE

The objective of the audit was to select and follow-up on high-risk recommendations from the Historic Landmark Commission Audit.

The audit scope included the two recommendations and management's action plan from the original audit report including all activity associated with the implementation of the audit recommendations from March 2010 to March 2013.

WHAT WE FOUND

We tested the two recommendations issued in our March 2010 audit and found that the Planning and Development Review Department partially implemented our first recommendation and the Chair of the Historic Landmark Commission, with the support of HPO staff, implemented the second recommendation.

Recommendation	Proposed Implementation Date	Status Reported by Management in August 2011	Status Verified by OCA
1. Train and monitor HPO Staff	Ongoing	Implemented	Partially Implemented
2. Prepare an annual report and work plan	May 2010	Implemented	Implemented in 2013

We appreciate the cooperation and assistance we received from Planning and Development Review Department staff and the Historic Landmark Commission during this audit.

Kenneth J. Mory, City Auditor

BACKGROUND

The Office of the City Auditor (OCA) conducted an audit of the Historic Landmark Commission (HLC) in March 2010 and issued two recommendations.

The activities of the HLC are primarily guided by the City of Austin Code of Ordinances and the HLC bylaws, both approved by the City Council.

The HLC is a sovereign board composed of seven Austin residents appointed by the City Council. The HLC advises the Council on historic preservation issues. It also initiates and reviews zoning cases to establish or remove historic designation; reviews and issues Certificates of Appropriateness for exterior alterations to City Historic Landmarks; approves tax abatement applications for designated City Historic Landmarks; reviews building, relocation and demolition permits and signage in the historic districts; and develops and updates a historic preservation plan for the City.

The Historic Preservation Office (HPO) of the Planning and Development Review Department provides administrative and support services to the HLC.

OBJECTIVE, SCOPE, AND METHODOLOGY

The Follow-up Audit of the Historic Landmark Commission was conducted as part of the Office of the City Auditor's Fiscal Year 2013 Strategic Audit Plan, as presented to the City Council Audit and Finance Committee.

Objective

The objective of the audit was to select and follow-up on high-risk recommendations from the Historic Landmark Commission Audit.

Scope

The audit scope included the two recommendations and management's action plan from the original audit report and all activity associated with the implementation of the audit recommendations from March 2010 to March 2013.

Methodology

To accomplish our audit objectives, we performed the following steps:

- Interviewed staff in the Planning and Development Review Department and HLC members
- Obtained and reviewed information from HLC meeting documentation
- Obtained and reviewed applicable laws and regulations including the City Code, City policies, and the HLC bylaws
- Evaluated risks related to fraud, waste, and abuse
- Evaluated Information Technology risks

AUDIT RESULTS

The March 2010 audit included two recommendations to ensure that HPO staff provides sufficient guidance to the HLC and that an annual report and work plan is prepared as required by City Code. Management concurred with both recommendations and subsequently reported the recommendations as implemented in August 2011.

We found that the Planning and Development Review Department partially implemented the first recommendation. HPO staff received the required training and improved compliance with procedures related to their HLC duties. However, further training, guidance, and monitoring are needed to ensure that staff provides sufficient guidance to the HLC.

We also found that the Chair of the Historic Landmark Commission, with the support of HPO staff, implemented the second recommendation in 2013.

EXHIBIT 1

Status of March 2010 Historic Landmark Commission Audit Recommendations

Recommendation	Proposed Implementation Date	Status Reported by Management in August 2011	Status Verified by OCA
1. The Director of the Planning and Development Review Department should ensure that Historic Preservation Office staff are trained on code requirements and monitored to ensure that they provide sufficient guidance to Historic Landmark Commission members.	Ongoing	Implemented	Partially Implemented
2. The Chair of the Historic Landmark Commission should ensure that the Commission, with the support of Historic Preservation Office staff, prepares an annual report and work plan as required by the City Code.	May 2010	Implemented	Implemented in 2013

SOURCE: OCA analysis of original audit recommendations, June 2013

Finding 1: We found that the Planning and Development Review Department partially implemented our first recommendation.

Since the prior audit, HPO staff has received the required training related to boards and commissions and management has conducted some monitoring of staff. We found an improvement in compliance with procedures, such as staff providing sign-in sheets at meetings, writing meeting minutes, and posting them for approval by the HLC. We also found satisfactory support to the

Commission members, who reported receiving backup documentation in a timely fashion and improved service from HPO staff. However, we found that further improvement is needed, particularly in the areas of compliance with conflict of interest, attendance, and other meeting requirements. Planning and Development Review Department management needs to conduct additional monitoring of HPO staff to ensure that all requirements and procedures are being followed and sufficient guidance is provided to HLC members.

We found that HPO staff is not collecting sufficient information to determine whether state disclosure requirements apply. A Texas Local Government Code requirement for sovereign boards requires that public officials disclose conflicts of interest by filing an affidavit with the Office of the City Clerk (OCC) regarding any “substantial interest” before them. During the scope period, five Commission members recused themselves from at least one item, noting that they had a conflict of interest, but there were no affidavits on file with the OCC. Because Commission members do not always state a reason for their recusal, it is not clear how many of these recusals involved a conflict of interest as defined by the Code. In interviews, we noted differing opinions between staff and Commission members as to the sovereignty of the HLC as well as a lack of awareness and understanding of the Texas Local Government Code requirements. However, the Law Department confirmed that the HLC is a sovereign board and conducted training for the HLC regarding conflicts of interest in January of this year. We did not note any recusals following this training during the last three months of our scope period. However, additional monitoring is needed to ensure compliance with applicable Code requirements so that affidavits are filed in compliance with State law and to reduce the potential that Commission members vote on items in which they have a conflict of interest.

Related to attendance requirements, HPO staff stated that they track Commission member absences using attendance sheets, but do not determine and track excused absences. Per the City Code, the City department assigned to provide staff support for a board shall keep attendance records and notify the City Clerk if a board member fails to comply with attendance requirements. HPO staff reported not being familiar with the three instances in City Code that define an excused absence. Our testing of attendance records indicates that three Commission members may have exceeded the allowable number of absences, but we were unable to verify the nature of those absences. Also, we noted references in the OCC’s training materials related to attendance requirements, but did not find guidance specific to documenting excused absences. Without proper guidance and training, departmental support staff cannot determine when board members have violated attendance requirements that cause an automatic vacancy requiring a new appointment.

Although we found improvements in staff compliance with procedures and City Code requirements, we noted minor issues in the following areas: approving meeting minutes, posting minutes, and voting to continue a meeting past 10:00 p.m.

Finding 2: We found that the Chair of the Historic Landmark Commission, with the support of Historic Preservation Office staff, implemented our second recommendation.

In March 2013, the HLC filed their annual internal review report for 2012. City Code states that each calendar year a board chair must conduct an internal review of the board and file an internal review report with the OCC. The HLC was not required to file an annual report for 2010 and did not file the required report in 2011. The Chair of the Historic Landmark Commission stated that she relies on staff to inform her of City Code requirements.

APPENDIX A

MANAGEMENT RESPONSE

Since we did not issue recommendations in this report, management is not required to provide an action plan or response. Management concurs with the findings in this report and has elected not to include a written response.