



Jim Newberry
MAYOR

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Citizens' Advocate Office

MEMORANDUM

TO: Mayor Jim Newberry
Vice Mayor Jim Gray
Council Members

From: Joan R. Beck
Citizens' Advocate

Date: April 4, 2008

Re: First Quarter 2008 Activity Report

The first quarter of 2008 has been very busy in the office of the Citizens' Advocate. We received 75 complaints, 30 of which related to specific recommendations of the management audit report concerning civil service reforms. Accompanying charts show the breakdown of complaints by council district, and by department. Several complaints brought to light matters worthy of Council attention or action, or have already been referred to Council members or committees. Of the 45 cases not related to audit recommendations, 8 remain opened and 37 are closed.

Noise/Nuisance/Barking Dog

During this quarter we received three complaints from residents who are frustrated by lack of enforcement of the barking dog laws. It is interesting to note that these complaints came in months when doors and windows are normally closed. Ordinarily we see these complaints increase in the Spring and Summer months when houses are opened and people are outdoors. The current laws are not being followed. Police and Courts will not enforce these regulations. **RECOMMENDATION:** Either amend the laws so that they are enforceable or repeal the laws so that the public knows where it stands. It is worse to have an ineffective law than to have no law at all.

Infill and Redevelopment Related Problems (I & R)

A citizen owns a commercial building adjacent to an infill project. The project is built out to the lot line, leaving no area for staging supplies. There also is no off-street parking for construction workers. Supply deliveries have occupied or blocked access to the adjoining property. Falling materials have damaged cars parked in the adjoining lot. Workers have parked at expired meters all day most days. The citizen has called the police to seek help with ejecting trespassers and removal of vehicles blocking access to the lot. The citizen uses a private contract towing company to enforce private parking in the lot, but the owners of the offending vehicles return before the tow truck connects to the car. The citizen has asked the building inspectors office for help

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resolving problems with the contractors. The citizen has reported parking meter violations. All of these problems continue to exist. They result in commercial customers being unable to park when visiting the businesses in the adjacent business, and in actual money losses to owners of vehicles damaged by the construction activity. **RECOMMENDATION:** New Infill & Redevelopment regulations should include a requirement that appropriate staging areas be designated on site plans and that staging be limited to such designated areas as a condition of approval; also that such regulations should include a requirement that contractor's liability insurance certificates be made available to adjoining property owners at no cost.

Infill and redevelopment incentives promote efficient use of a precious resource, land. No one would argue against such a policy. Efficient use of developed land results in conservation of undeveloped land, another admirable policy. When I & R occurs, though, it is not in a vacuum. It is in the context of existing neighborhoods, communities, and economies. We must be very careful that promoting I & R does not destroy its context. There is a danger that the effects of I & R may be felt disproportionately by those who can least afford it. Much of the land available or potentially available is in areas of low to moderate income families. We ought to ensure that those families will not be forced out of their homes and neighborhoods by I & R projects. Rather than displacement, the government has opportunities to help existing homeowners to extend the economic life of their homes and improve their neighborhoods, through the use of CDBG funds. **RECOMMENDATION:** At this time of economic uncertainty consider expansion of the HOME program and look for new opportunities to preserve home ownership in low and moderate income neighborhoods.

Police Community Relations

This office continues to hear concerns about Police Community Relations. We applaud the efforts of the Division of Police through its CLEAR unit to foster better communications with the residents of Lexington. Nonetheless, we continue to find that many residents of Lexington are intimidated by the prospect of voicing concerns about police to police. Concerns of this nature average one a month. **RECOMMENDATION:** Establish a task force with the Division of Police to examine police community relation efforts in other cities.

Community Corrections

The family of an inmate contacted the Citizens' Advocate out of concern for the welfare of the inmate. Our review of the records with Corrections' management showed that the inmate was asked if he took prescription medication on a regular basis, to which he answered in the affirmative. There was insufficient follow up to determine what medication he takes. Consequently he was without the medication for over two weeks before it was discovered. By that time adverse symptoms were apparent. **RECOMMENDATION:** Institute a system to verify that corrections intake fully explores inmates' pre-existing conditions and necessary ongoing medical treatments.

Day Treatment Center: Opinion

The Day Treatment Center ought to be maintained in its current framework. It is not an alternative high school, so transferring it to the public school system is not appropriate. It is intensive treatment for youth, who must also be provided education. These are children who are teetering on the brink of anti-social lifestyles; without intervention they can easily succumb to the worst that our society has to offer. The first and primary focus is treatment. Transferring this important program and facility will change its focus from treatment to education. It is ironic that this recommendation came out at the same time that the State is considering creating just such a program for adult nonviolent offenders.

Housing Matters: Observation

We referred many complaints to Outside Agencies during this quarter. Many of those calls were people who sought assistance with the legal system. However, a significant portion of the Outside Agency referrals had to do with housing issues. People came through our office looking for temporary shelter. They came with questions about housing discrimination. They came for advice about neighborhood associations. The lesson to be learned is that residents of Lexington have serious concerns about where they live, about access to decent, affordable housing and about disparate treatment.

Employee Relations

The Management Audit was released on February 26, 2008. Some affected Directors were invited to a preview that morning; a synopsis was presented to Council that afternoon, and it was posted on the LFUCG website. The audit recommends the elimination of many full time positions, the realignment and reorganization of many others. The audit also recommends de-classifying many positions in government, removing them from the local merit system and making those positions subject to political whim. In the 5 weeks since then, most of those employees have heard nothing else on the status of their employment.

According to *Shapiro & Fisher*, five elements contribute to healthy relationships, including employment relationships. Among those are affiliation, or a sense of belonging or connection, and status, or recognition of expertise and experience. *Beyond Reason, Shapiro & Fisher, 2005*. The manner in which the various staffing recommendations have been handled has diminished both elements of affiliation and status. Morale is very low, in large part because your workers do not know if they will have a job tomorrow, or next week or next month. I have heard from 28 employees from 4 departments who are hurt, angry, and worried. Those sentiments do not contribute to a productive workforce. **RECOMMENDATION:** Engage the conversation with administration in public forums; communicate clearly to employees Council's intentions as to classification of positions, hiring practices, and staffing levels.

Independence of the Ombudsman

For the proper functioning of an ombudsman office, the American Bar Association identified "independence" as an essential characteristic. The structure of the office, its place in the organization, is a strong indicator of the level of independence.

In assessing whether an ombuds is independent in structure, function, and appearance, the following factors are important: whether anyone subject to the ombuds's jurisdiction or anyone directly responsible for a person under the ombuds's jurisdiction (a) can control or limit the ombuds's performance of assigned duties or (b) can, for retaliatory purposes, (1) eliminate the office, (2) remove the ombuds, or (3) reduce the budget or resources of the office. - *Standards For The Establishment and Operation Of Ombuds Offices Revised February, 2004*.

It is easy to imagine why independence is so important to the proper functioning of an ombudsman. If the ombudsman is supervised by the authority it is meant to oversee then the prospect of retaliation can chill the investigative instinct of the ombudsman.

The same ideal is also espoused by for public sector ombudsmen in the standards promulgated by the United States Ombudsman Association:

The Ombudsman's office, in structure, function and appearance, should be free from outside control or influence. This standard enables the Ombudsman to function as an impartial and critical entity that reports findings and makes recommendations based solely on a review of facts and law, in the light of reason and fairness. - *United States Ombudsman Association Governmental Ombudsman Standards October 2003, prefatory comments*.

The critical nature of this characteristic was further emphasized when the office of the Citizens' Advocate was created. The Charter committee did not place it in the executive branch of government, but rather in the legislative branch, with power to oversee the executive. **RECOMMENDATION:** Reject Management Partners Inc. recommendation F8 to eliminate the Citizens' Advocate and rely on LexCall.

INTAKE PER DISTRICT		
Districts:		Totals:
James	1	11
Blues	2	10
DeCamp	3	4
Beard	4	5
Stevens	5	2
Stinnett	6	3
Crosbie	7	4
Myers	8	3
McChord	9	2
Blevins	10	2
Henson	11	2
Lane	12	3
Non-District Related		
13		24
TOTAL INTAKE		75

DEPARTMENT INTAKE TOTALS	
Departments:	Totals:
Council	5
Environmental Quality	4
Finance and Administration	5
General Services	1
Mayor's Office	30
Public Safety	13
Public Works & Development	6
Social Services	5
Others:	
Outside Agency	12
State	1
Utilities	2
TOTAL INTAKE ROUTED:	84

Shaded 3 Departments indicate largest number of intakes received this quarter

* A total of 75 intakes impacted the various department 84 times.

** some intakes may affect several different departments