

***COMMISSION
MEETING***

February 20, 2013

9:30 a.m.

***MONTGOMERY REGIONAL
OFFICE***

ITEM 1

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MEETING

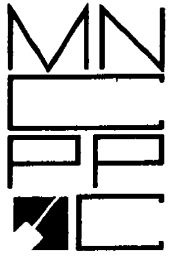
Wednesday, February 20, 2013

MRO

9:30 a.m. – 11:30 a.m.

				<u>ACTION</u>	
				Motion	Second
1.	Approval of Commission Agenda	(+*) Page	1		
2.	Approval of Commission Minutes	(+*) Page	3		
	a) Commission Meeting – January 16, 2013	(+*) Page	3		
	b) Commission Meeting – January 16, 2013 (Closed Session)	(+*) (LD)			
3.	General Announcements				
4.	Committee/Board Reports (For Information Only):				
	a) Executive Committee Meeting Minutes – February 6, 2013	(+) Page	9		
	b) Executive Committee Meeting Minutes – Closed Session February 6, 2013	(++)			
	c) Minutes of the meeting of the Employees’ Retirement System Board of Trustees	(+) Page	13		
5.	Commission Presentations and Action Items				
	a) Recognition of Diversity Council Members/ Photo with Commissioners	(+) Page	17		
	b) Practice 3-31 – Fraud, Waste, and Abuse (Bennett/Dupree)	(+*) Page	19		
	c) Quarterly Update on the Implementation of Show Place Arena Audit Recommendations (Executive Director/Bennett)	(+) Page	31		
	d) Financial Disclosure Filing Requirements (Executive Director/ General Council)				
<hr/>					
6.	<u>Officers’ Reports</u>				
	a) Executive Director				
	Late Employee Performance Evaluations (January 2013).....	(+) Page	43		
	b) Secretary-Treasurer				
	Investment Report – (January 2013).....	(+) Page	45		
	c) General Counsel				
	1. Litigation Report – (January 2013).....	(+) Page	51		
	2. Legislative Update				
7.	Closed Discussion:				
	a) Classification/Compensation Study (Spencer/King)				
	b) Collective Bargaining Pursuant to Maryland State Government Article of the Annotated Code of Maryland, Section 10-508(a) (7) & (8) this session is closed to consult with counsel for legal advice, conduct collective bargaining discussions, and consider matters that relate to negotiations. (Executive Director Barney)				

(+) Attachment (++) Commissioners Only (*) Vote (H) Handout (LD) Late Delivery



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

ITEM 2a

Commission Meeting
January 16, 2013
Minutes

The Maryland-National Capital Park and Planning Commission met on January 16, 2013, at 9:30 a.m. in the Parks and Recreation Auditorium in Riverdale, Maryland.

PRESENT

Prince George's County Commissioners

Elizabeth Hewlett, Chair
Dorothy Bailey
Manuel Geraldo
A. Shuanise Washington

Montgomery County Commissioners

Françoise Carrier, Vice-Chair
Marye Wells-Harley
Casey Anderson
Norman Dreyfuss
Amy Presley

ABSENT

John Shoaff

Chair Carrier convened the meeting at 9:40 a.m.

Chair Carrier stated that Item 6b – Government Finance Officers Association Award would be presented under General Announcements.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Move Item 6b to General Announcements

Action: Motion of Hewlett to approve the agenda with the modification
Second by Wells-Harley
9 approved the agenda

ITEM 2 ROTATION OF COMMISSION CHAIR

Action: Motion of Geraldo to approve the Rotation of the Commission Chair
(to Elizabeth Hewlett from Françoise Carrier)
Second by Presley
9 approved the motion

After the rotation of Commission Chair, Chair Hewlett welcomed everyone back from the holiday season. She reflected on the events of 2012, and stated that despite the budget challenges, fiscal constraints, and natural disasters, the agency did a phenomenal job in maintaining operations and providing assistance to the local communities and governments. Chair Hewlett noted that the agency celebrated its 85th anniversary and maintained award-winning quality programs, services, and benefits for our diverse bi-county area. Chair Hewlett attributed the agency's success to the employees. She also

acknowledged the departments, Department Heads, and Officers for their efforts. Chair Hewlett awarded a significant amount of credit for the Commission's success to Vice-Chair Carrier who led the organization through numerous challenges in a phenomenal way, putting the Commission's and employees' best interests first. The Commission has won numerous local, national and state-wide awards. In 2013, the Commission will be building on the success of the Diversity Council's 10th anniversary. Chair Hewlett congratulated the Parks and Recreation Department for being nominated for its sixth national award. She encouraged everyone to participate in the Commission's Wellness Program. Chair Hewlett wished Commissioner Wells-Harley a belated Happy Birthday. She challenged employees to continue building on the organization's past successes.

ITEM 4 GENERAL ANNOUNCEMENTS

Item 6b – Chair Hewlett announced that the Commission received the Certificate of Achievement for Excellence in Financial Reporting for the Comprehensive Annual Financial Report (CAFR) for fiscal year ending June 30, 2011, awarded by the Government Finance Officers Association (GFOA) of the United States and Canada. The Commission was recognized for receiving this award 38 times, which is the highest number of times received by an organization in the Special District Category. The Finance Department was photographed with the Commissioners. Mr. Zimmerman thanked the Finance staff for their efforts.

Chair Hewlett announced that Darin Conforti has accepted the position as Deputy Director of the Department of Parks and Recreation of Prince George's County. Vice Chair Carrier commented that she is pleased that Mr. Conforti will remain with the Commission. Prince George's County Parks and Recreation Director Ronnie Gathers welcomed Mr. Conforti to his team. Mr. Conforti expressed his gratitude to Executive Director Barney for the opportunity to work as the Corporate Budget Manager for the past year and a half. He also thanked Chair Hewlett, Director Gathers, and the Prince George's County Planning Board for the professional honor to serve the Commission in this capacity.

ITEM 3 APPROVAL OF COMMISSION MINUTES – December 19, 2012

Action: Motion of Bailey to approve the Minutes
 Second by Wells-Harley
 9 approved the Minutes

ITEM 6 a) OPEB VALUATION – RETIREE HEALTH PROGRAMS

Secretary-Treasurer Zimmerman introduced Dave Boomershine from Boomershine Associates, the actuary who prepared the Commission's Actuarial Valuation of Other Post-Employment Benefits (OPEB Plan). Mr. Boomershine introduced Greg Stump, external Senior Consulting Actuary. The consultants presented the Retiree Healthcare Programs 2012 Actuarial Valuation Review including an overview of the Government Accounting Standards Board – Statement No: 45 (GASB) rules, and the results of the OPEB Valuation. The topics covered in the presentation included: Actuarial Valuation Process, Potential Impact of Accounting, Net OPEB Obligation

Summary – 7/1/2011 – 6/30/2012, Valuation Results Summary, and Valuation Highlights. The annual required contribution was reduced from \$29.7 million to \$21.8 million. The presentation was provided in the Commission packet.

c) AMENDMENTS TO PRACTICE 1-31, ORGANIZATION AND FUNCTIONS OF THE AUDIT COMMITTEE AND 3-31, FRAUD, WASTE, AND ABUSE

Executive Director Barney introduced Senior Policy Specialist Lisa Dupree. Executive Director Barney stated that Policy Chief, Anju Bennett was unable to make the presentation due to a family emergency. She thanked Ms. Dupree and Ms. Bennett for their hard work on the policies, and Commissioners Presley and Washington for input on the policies. The Commissioners congratulated Ms. Dupree on becoming a full time Merit system employee.

Ms. Dupree provided an overview of proposed amendments presented in the Commission packet. These included a review of Practice 1-31, which addresses the functions of the Audit Committee and the handling of the audits (Attachment A), and Practice 3-31, which covers the reporting and investigation of Fraud, Waste, and Abuse (Attachment B).

At the beginning of the discussion, Ms. Dupree distributed a set of comments on Practice 3-31 which had been submitted by the Audit Committee to Ms. Bennett. Ms. Bennett had reviewed the comments and provided responses using text boxes in the margins of the documents for each corresponding comment.

Practice 1-31

- Commissioner Anderson requested clarification on the roles of the internal auditors (Section 2 of Responsibilities). Executive Director Barney explained that the work program generally covers regular audits; however, there are situations where fraud, waste, and abuse are alleged and must be investigated. The policy calls for the Internal Auditor to consult with law enforcement agencies and the General Counsel when there is reason to believe criminal conduct is involved. If this type of complaint is received, a discussion should take place to determine if it is appropriate for Internal Audit to take part in the investigation or should the complaint immediately be turned over to Park Police.

Commissioner Anderson commented that there should be a heavier presumption that the matter should be referred to law enforcement as opposed to an internal investigation as a matter of course. General Counsel Gardner responded that it is the function of the Audit Committee to determine that the complaint should be referred to law enforcement. The Commissioners held an extensive discussion on the matter. Commissioner Geraldo recommended striking “reveal material” from the sentence that states that Internal Audit shall consult law enforcement and the General Counsel when investigations reveal material criminal conduct. Initially, Vice-Chair Carrier recommended leaving the term in the policy on the theory that there may be levels of conduct that are so minor that the Audit Committee should have the discretion to determine if law

enforcement agencies should be consulted on the complaint. Chair Hewlett and Commissioners Presley and Washington concur with the Vice-Chair's recommendation. As the discussion evolved, and on the input of the General Counsel, the term "reveal material" was identified for removal. Additionally, staff was asked to modify the sentence to read that the Internal Auditor consults with "law enforcement agencies and/or the General Counsel as appropriate when..." (Subsection 2.a. 5)b)).

- Subsection 2.c.2) Add "Directly or indirectly" to the beginning of the sentence to clarify limitations on disclosure of information.
- Commissioner Anderson inquired how Commissioners are informed about significant audits that are not released publicly. Commissioner Presley responded that there is a requirement for an annual report. Vice-Chair Carrier stated that the annual presentation from the Audit Committee fulfills that function. Commissioner Geraldo commented that given the responsibilities of each Commissioner, they should have access to the audits irrespective of the findings; that the information should not remain in the realm of the Executive Committee. Chair Hewlett suggested that a report be presented more often than annually, and if an issue out of the ordinary arises, it will be reported to the Commissioners.
- Commissioner Washington inquired if there would be a degree of comfort if those cases were deferred to Commissioner Presley and herself because of the volume of audit reports. Commissioner Anderson agreed to the recommendation and inquired what the standard will be to present the information to the full Commission. Commissioner Bailey commented that she would like to know what decisions have been made as the result of an audit report. Commissioners Presley and Washington will report to the Commission when they have developed internal operating procedures as required by the Policy.

Practice 3-31

Ms. Dupree stated that proposed revisions to this Practice reflect the restructuring of the Internal Audit Office, which now includes oversight of fraud, waste, and abuse complaints. Further, the Practice consolidates viable portions of Practice 3-31 with Administrative Procedures 05-02 for clarity and elimination of redundant content.

During the discussion, the following items were identified for additional input or modification:

- Page 17 of the handout containing the Audit Committee's recommendations: Staff identified a comment from the Audit Committee which inquired whether the existing policy language prohibiting retaliation against persons filing reports of fraud, waste and abuse should be further clarified. More specifically, Commissioners Presley and Washington inquired how a situation would be handled in which the individual making a report was also involved in fraud, waste and abuse. Policy staff had noted in the handout that this issue had been discussed with the General Counsel who felt that adding

language regarding consequences from investigations could deter employees from filing allegations. During the discussion, General Counsel Gardner explained that the policy provision is designed to clarify that consequences based on making the report in which case, the individual would be held harmless. On a related issue, Commissioner Anderson inquired whether the language was consistent with whistleblower laws. Executive Director Barney commented that General Counsel and staff will research the appropriate language for inclusion in this section of the practice and present it to the Commission for approval.

- Page 21 of the handout containing the Audit Committee's recommendations: Commissioners requested that in cases where the Executive Director serves as the intake on allegations involving Internal Audit, the General Counsel should also be consulted. Therefore, "the General Counsel" will be added after Chair and Vice-Chair.

The Commissioner decided to adopt amendments to Practice 1-31. It was also decided that Practice 3-31 would be revisited at the next Commission meeting to allow review of retaliation protections under whistleblower laws. Chair Hewlett thanked Ms. Dupree for her efforts and Ms. Bennett in absentia.

Action: Motion of Presley to approve the Amendments to Practice 1-31, with Practice 3-31 deferred to the next Commission meeting
 Second by Washington
 9 approved the Amendments

ITEM 6

d) OFFICERS' REPORTS

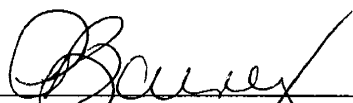
- (1) Executive Director – Late Employee Evaluations (December 2012)
 Executive Director Barney commented that the report is a helpful tool which assists Directors in identifying and focusing on completion of pending evaluations.
- (2) Secretary-Treasurer – Investment Report (November 2012)
 Secretary-Treasurer Zimmerman reported that the weighted average return for the month is .28%. The trends continue to be downward, and some of the better investments purchased a year and a half ago have now matured. He has not been able to find similar yields in the current market. The organization is in compliance; however, choices and yields are limited.
- (3) General Counsel – General Counsel Gardner shared that one bill proposed for this year in the General Assembly would require the Commission to build certain office buildings and facilities occupied and over 7,500 square feet or renovate those facilities up to a Leeds Silver standard, or an equivalent standard that would be approved by the State Department of General Services. Mr. Gardner thanked the Department of Parks and the Department of Parks and Recreation because staff level amendments to the bill have been developed as the original bill did not suit the organization. General Counsel Gardner has not received feedback from the sponsor; however, when he receives that information, and if the sponsor is comfortable with the drafted amendments, he will bring the bill to the

Planning Boards with the recommendation that the Commission supports the bill with the amendments.

Pursuant to the Maryland State Government Article of the Annotated Code, Section 10-508(a)(7)(8), & (9), the meeting adjourned to closed session at 11:20 a.m. to consult with counsel to obtain legal advice, to consult with staff, consultants, or other individuals about pending or potential litigation, and to conduct collective bargaining negotiations or consider matters that relate to the negotiations.



Gayla I. Stringfield, Senior Technical Writer



Patricia Colihan Barney, Executive Director



ITEM 4a

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue Riverdale, Maryland 20730

Executive Committee Meeting February 6, 2013 Minutes

A meeting of The Maryland-National Capital Park and Planning Commission's Executive Committee was held on February 6, 2013, at 9:00 a.m. in the Executive Director's Conference Room, 6611 Kenilworth Avenue, Riverdale, Maryland. Present at the meeting were Chair Elizabeth M. Hewlett, Vice-Chair Françoise M. Carrier, and Executive Director Patricia C. Barney. Also in attendance were:

Department Directors/Deputies/Presenters/Staff

Mary Bradford, Director, Montgomery County Parks
Ronnie Gathers, Director, Prince George's County Parks and Recreation
Fern Piret, Director, Prince George's County Planning
Adrian Gardner, General Counsel
Joe Zimmerman, Secretary-Treasurer
Piera Weiss, Deputy Director, Montgomery County Planning (for Acting Director Krasnow)
Anju Bennett, Division Chief, Corporate Policy and Management Operations (CPMO)
William Spencer, Director, Human Resources
Matthew Mills, Associate General Counsel
Boni King, Human Resources Manager, DHRM
Lisa Dupree, Senior Policy Specialist, CPMO

Executive Director Barney convened the meeting at 9:12 a.m.

ITEM 1 AGENDA APPROVALS

a) EXECUTIVE COMMITTEE MEETING AGENDA

- Due to time constraints, move Enterprise Resource Planning Human Capital Management presentation to April agenda.

b) FEBRUARY COMMISSION MEETING AGENDA

- Move Health Care Reform presentation to March agenda. Human Resources to provide a high-level summary with option for further detailed review if the Commissioners request that.
- Move Enterprise Resource Planning Human Capital Management presentation to April agenda.
- Confirm that there is a quorum for the April Commission meeting and keep agenda light, or reschedule if needed. Chair Hewlett will not be present at that meeting.

c) REVIEW OF COMMISSION ROLLING AGENDA

- Executive Director Barney will contact Commissioners Presley and Washington to determine if they are prepared to present the Audit Committee reports at the March Commission meeting.
- Division Chief Bennett will contact Acting Audit Chief Raines about the status of Internal Audit's report to the Audit Committee.

ITEM 2 HEALTH CARE REFORM BRIEFING

Health and Benefits Manager, Jennifer McDonald, presented an update on Health Care Reform. A background packet was provided to the Executive Committee. Ms. McDonald explained that in December, AON Hewitt Consulting provided an update of the major provisions of health care reform and its impact on the M-NCPPC. This information was being shared to make the agency aware of the impact on budgets and hiring practices.

Ms. McDonald reviewed the packet which outlined provisions that have already taken place and those which will be implemented in 2013, 2014, and beyond. She explained how the agency's existing plans provide grandfathered status. Executive Director Barney reminded staff that Commissioners had requested a cost comparison of maintaining grandfathered status versus implementing reform provisions. Vice-Chair Carrier commented that only one Commissioner had requested the analysis and asked staff to obtain a quote from the consultant to determine the cost of the study and check back with the Commission for direction.

Following the review, Ms. McDonald was asked to provide the Commission an overview of the Health Care Reform components with the option for a more detailed review should the Commissioners elect.

On a separate matter, Chair Hewlett suggested that with the recent flu outbreak, the agency explore offering flu shots again. Montgomery County Parks Director, Mary Bradford, stated that free flu shots at participating CVS pharmacies are part of the health plan. Staff was asked to look into options/costs.

Vice Chair Carrier shared that all CVS pharmacies are not properly administering the 90 day dispensing of medication. Ms. McDonald is to follow up with CVS and report her findings.

ITEM 3 ICMA – INDIVIDUAL RETIREMENT ACCOUNT OPTION

No discussion; provided for informational purposes.

The Executive Committee moved to closed session at 10:05 a.m. Following the closed session, the Executive Committee re-convened into Open Session at 12:10 p.m.

ITEM 4 PRACTICE 3-31, FRAUD, WASTE, AND ABUSE

Anju Bennett, CPMO Division Chief, presented final proposed amendments to Practice 3-31, Fraud, Waste, and Abuse. Ms. Bennett provided background on the policy and stated that the policy was being brought back to the Executive Committee for consideration of additional amendments. It was explained that newer amendments stemmed from the discussion of the policy at the January 16th Commission meeting. Ms. Bennett explained that while she was not able to make that meeting, she reviewed

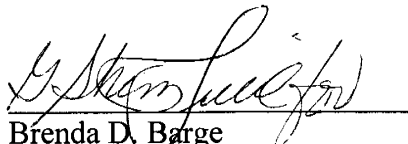
the tape of the meeting to understand concerns identified by the Commission. The Commission had made suggestions for some minor modifications and also inquired whether existing policy prohibiting retaliation against persons filing a report of fraud, waste and abuse complied with whistleblower protections.


Ms. Bennett explained the new amendments which responded to concerns identified by the Commission. She added that a few additional modifications were suggested by staff for clarification of policy. With respect to the prohibition on retaliation, she reviewed two options for consideration by the Executive Committee. She explained that while the existing policy was consistent with the Maryland Whistleblower law, the new language clarifies the application of retaliation to actions taken by management, and references the Whistleblower law so it is clearer that the provision complies with those protections. The Executive Committee supported the second option with minor modification. Staff was asked to forward the final amendments to the Commission for review and adoption.

ITEM 5 QUARTERLY UPDATE OF SHOW PLACE ARENA AUDIT COMMITTEE RECOMMENDATIONS:

No discussion; provided for informational purposes.

There being no further business to discuss, the meeting adjourned at 1:13 p.m.


Brenda D. Barge
Administrative Specialist


Patricia C. Barney
Executive Director



EMPLOYEES' RETIREMENT SYSTEM
The Maryland-National Capital Park and Planning Commission

**REGULAR BOARD OF TRUSTEES MEETING
MINUTES**

Tuesday, December 4, 2012; 10:00 A.M.
ERS/Merit Board Conference Room

The regular meeting of the Board of Trustees convened in the ERS/Merit Board Conference Room on Tuesday, December 4, 2012 at 10:00 a.m. Voting members present were: Khalid Afzal, Casey Anderson, Josh Ardison, Patricia Colihan Barney, Richard H. Bucher, Ph.D., Elton King, Barbara Walsh and Joseph C. Zimmerman, CPA. LaKisha Giles, Elizabeth M. Hewlett and Guy Jones were not present.

ERS staff included: Andrea L. Rose, Administrator; Heather D. Brown, Administrative Assistant; and, Sheila S. Joynes, Accounting Manager.

Presentations by M-NCPPC Legal Department – LaTonya Reynolds, Associate General Counsel and Wilshire Associates - Mike Dudkowski, Managing Director and Bradley Baker, Associate.

1. CONSENT AGENDA

The following items are to be approved or accepted by vote on one motion unless a Board member requests separate consideration:

- A. Approval of the December 4, 2012 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, November 6, 2012
- C. Minutes of Executive Session, November 6, 2012 (*Confidential*)
- D. Disbursements Granted Report – October 2012
- E. Transfer of \$8,700,000 Cover Administrative Expenses and Benefit Payments for December 2012 – February 2013
- F. 2013 Board of Trustees Meeting Dates and Work Program
- G. 2013 Committee Meeting Dates and Work Programs

In the absence of the chairman, VICE CHAIRMAN ANDERSON opened the meeting at 10:00 a.m.

The December 4, 2012 Board of Trustees Meeting Agenda was revised to include Item 5.A.i.

DR. BUCHER made a motion, seconded by MS. BARNEY to approve the Consent Agenda which includes the December 4, 2012 Board of Trustees Meeting Revised Agenda. The motion PASSED unanimously (6-0). (Motion #12-95) MR. ZIMMERMAN AND MR. AFZAL were out of the room.

2. CHAIRMAN'S ITEMS

- A. Board of Trustees Conference Summary
 - i. IFEBP 58th Annual Employee Benefits Conference report by Josh Ardison

MR. ARDISON reported on the IFEBP 58th Annual Employee Benefits Conference in his memorandum dated December 4, 2012.

3. MISCELLANEOUS

4. REPORT OF THE ADMINISTRATOR

- Presentation by Administrator, Andrea L. Rose
 - i. Administrator's Report dated November 26, 2012

Andrea Rose presented the Administrator's Report dated November 26, 2012.

The Annual Report, Annual Statements, and Summary of Material Modifications have been distributed to all members.

5. MANAGER REPORTS/PRESENTATIONS

- A. Wilshire Associates
 - Presentations by Mike Dudkowski, Managing Director and Bradley Baker, Associate
 - i. Recommendation to Approve the Acceptance of Non-Cash Collateral for Securities Loans; Continue Use of the Current Guidelines; and Approve the Addendum to Securities Lending Authorization Agreement
 - ii. Recommendation to Approve Revised Statement of Investment Policy that reflects addition of Private Equity Guidelines
 - iii. Executive Summary of Investment Performance; as of September 30, 2012
 - iv. Summary of Investment Performance; Qtr. Ending September 30, 2012
 - v. 3yr and 5yr Rolling Returns; as of September 30, 2012
 - vi. Performance Measurement and Benchmarking for Private Investments

Mike Dudkowski discussed Northern Trust's letter dated November 15, 2012 *Re: Securities Lending Collateral Section Modification to Non-Cash Collateral for the Maryland-National Capital Park and Planning Commission Employees' Retirement System (ERS)*. Currently, the ERS accepts non-cash collateral through participation in the Core USA Collateral Section. Beginning in February 2013, non-cash collateral will no longer be held on a pooled basis within the Core USA Collateral Section; instead, each client of Northern Trust may elect to have its non-cash collateral held separately on its behalf through a non-cash collateral account. This enhancement to Northern Trust's securities lending program provides greater flexibility to clients to select the types of collateral they may wish to accept. As part of the change, the ERS can select between the current guidelines and global non-cash guidelines. Mr. Dudkowski recommended continuing with the current guidelines which limit non-cash collateral to obligations issued or guaranteed by the U.S. Government or its instrumentalities.

LaTonya Reynolds reviewed the Addendum to the Securities Lending Authorization Agreement between The Northern Trust Company and the Maryland-National Capital Park and Planning Commission Employees' Retirement System (ERS). The addendum governs the terms by which Non-Cash Collateral is accepted. The addendum meets the standards for legal sufficiency and Ms. Reynolds recommended the Board approve the Addendum.

DR. BUCHER made a motion, seconded by MS. WALSH to approve the Acceptance of Non-Cash Collateral for Securities Loans; Continue Use of the Current Guidelines; and Approve the Addendum to Securities Lending Authorization Agreement. The motion PASSED unanimously (8-0). (Motion #12-96)

Mr. Dudkowski presented the Revised Statement of Investment Policy which includes new Private Equity Guidelines.

DR. BUCHER made a motion, seconded by MS. BARNEY to approve the Revised Statement of Investment Policy which includes new Private Equity Guidelines. The motion PASSED unanimously (8-0). (Motion #12-97)

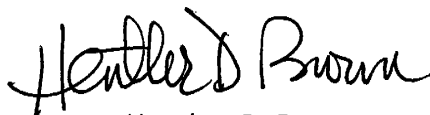
Mr. Dudkowski and Bradley Baker reported on the fund's performance for the quarter ending September 30, 2012. The ERS' total return was 4.93% (net of fees) for the third quarter 2012. The total fund composite outperformed the policy return of 4.73% by 0.20%. The quarter ended with a total market value of \$679.7 million, an increase of approximately \$48.1 million. For the year-to-date ending September 30, 2012, the ERS fund returned 10.60% versus its policy benchmark of 10.96%. The ERS fund return was 10.05% for the three-years ended September 30, 2012 and 1.86% for the five-years ended September 30, 2012 versus the policy index which returned 9.87% and 2.05%, respectively.

Mr. Dudkowski and Mr. Baker conducted the Performance Measurement and Benchmarking for Private Investments training.

DR. BUCHER left the meeting at 11:05 a.m.

The Board of Trustees meeting of December 4, 2012 adjourned at 11:35 a.m. The motion PASSED unanimously (7-0). (Motion #12-98)

Respectfully,



Heather D. Brown
Administrative Assistant



Andrea L. Rose
Administrator

ITEM 5a

Departing Diversity Council Members - 2010 - 2012

NAME OF MEMBER

DEPARTMENT

Vanessa Akins-Mosely, – Co-Chair	Prince George’s County Planning
Betty Carlson-Jameson	Prince George’s County Planning
Antonio DeVaul	Montgomery County Park Police
Parviz Izadjoo	Montgomery County Parks
Gail Tacconelli	Montgomery County Chair’s Office
Michael Kurland	Prince George’s County Parks & Rec
Jeannette Glover	Central Administrative Services - DHRM

Certificates of Appreciation will be presented at the Commission Meeting on Wednesday, February 20, 2013 at 9:30 a.m., at MRO.

New Diversity Council Members - 2013 - 2014

Robbin Brittingham, Co-Chair	Montgomery County Planning
Anika Jackson, Co-Chair	Prince George’s County Chair’s Office
Paul Brown	Central Administrative Services - DHRM
Kelli Beavers	Prince George’s County Parks & Rec
Joseph Dehuarte	Prince George’s County Planning
Darlene Douglas	Montgomery County Parks
Jimmy Mendoza	Montgomery County Parks
Mechelle Myers	Central Administrative Services - Finance
Arnold Ramsammy	Montgomery County Planning
Bill Sheehan	Prince George’s County Parks & Rec
Anjali Sood	Montgomery County Planning
John Wooden	Prince George’s County Planning
Alex Ramirez	Prince George’s County Parks

Patricia Colihan-Barney, Executive Director – Sponsor
Debra Carter – Coordinator, CAS



ITEM 5b

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

February 11, 2013

To: The Commission

Via: Patricia C. Barney, Executive Director

From: Anju Bennett, Chief
Lisa Dupree, Senior Policy Specialist
Corporate Policy & Management Services Division

Subject: Proposed Amendments to Administrative Practice 3-31, Fraud, Waste, and Abuse.

Requested Action

The Commission is asked to consider final proposed amendments to Administrative Practice 3-31, Fraud, Waste, and Abuse (Attachment A).

Background

At the January 16 meeting of the Commission, staff presented updates to Practice 3-31 which outlines requirements for reporting and handling cases of fraud waste and abuse. Proposed amendments:

- Consolidate and update two existing policy documents (Practice 3-31, and separate Administrative Procedures) to eliminate redundancy and provide clearer/streamlined guidance.
- Ensure consistency with revised Practice 1-31, Organization and Functions of the Audit Committee which outlines its oversight of the Internal Audit functions and organizational concerns related to internal controls.
- Incorporate the restructured responsibilities for handling reported concerns of fraud, waste and abuse.

Amendments explain:

- The restructured role of Internal Audit which is now responsible for leading fraud, waste, and abuse investigations. This role was formerly assigned to the Secretary-Treasurer.
- The Secretary-Treasurer's responsibility for investigating complaints related to vendors doing business with the agency.
- The Executive Director's role for intake of concerns involving the Internal Audit Office.

During the discussion of the policy, a few minor modifications were identified for inclusion. A discussion also took place on a provision that exists in the current adopted version of the policy. Commissioners inquired whether non-retaliation protections afforded to persons filing reports of fraud, waste and abuse were consistent with whistleblower protection laws.

Staff has reviewed the concerns raised by the Commission and incorporated final amendments into the attached policy draft. Maryland Whistleblower protections were analyzed in consultation with the Office of the General Counsel. While the earlier draft addressed requirements of the law, staff has proposed additional language to clarify the application of the protections. These final amendments were presented to the Executive Committee on February 6, 2013. The Executive Committee supported the amendments and asked that the policy be forwarded to the Commission for review and adoption.

Attachments:

A: Final Proposed Revisions to Administrative Practice 3-31: Fraud, Waste, & Abuse

**Final Proposed Revisions to
Administrative Practice 3-31, Fraud, Waste, & Abuse**

Key to Proposed Amendments

This document reflects all policy amendments presented to the Commission at its meeting of on January 16 meeting. A few additional modifications are being proposed following the January 16 discussion as a result of items identified by the Commission or additional clarification recommended by policy staff. The additional amendments are identified in the updated draft as follows:

Text that is shaded and underlined: Recommended insertions subsequent to January 16 Commission meeting
~~Text with double-strikeout~~: Newly recommended deletions subsequent to January 16 Commission meeting

Final Policy Draft (February 6, 2013)

AUTHORITY The Commission adopted amendments to this Administrative Practice on

_____.

PURPOSE /

BACKGROUND

As a taxpayer supported entity, the M-NCPPC has an ongoing and paramount responsibility to ensure the highest level of integrity in the appropriate use of M-NCPPC property/ resources. This Administrative Practice was initially approved by the Commission on April 20, 2005 to:

- Strengthen the prohibition of fraud, waste, and abuse with respect to M-NCPPC property/resources;
- Clearly communicate the affirmative obligation of all employees to report known or suspected fraud, waste, and abuse of M-NCPPC property/resources; and
- Outline the responsibilities in connection with the reporting of fraud, waste, and abuse.

The Practice was revised by the Commission on _____ to reflect the restructured responsibilities of the Internal Audit Office, provide clearer guidance to employees and management on the reporting and handling of fraud, waste and abuse complaints, and clarify protections under the Maryland Whistleblower Law.

REFERENCES

- Division II of the Land Use Article of the Annotated Code of Maryland, the Maryland-National Capital Park and Planning Commission;
- Merit System Rules and Regulations;
- Administrative Practice 1-31, "Organization and Functions of the Audit Committee";
- Administrative Practice 2-14, "Non-Commission Employment and Non-Commission Business";
- Administrative Practice 2-15, "Employee Use of Commission Property";
- Administrative Practice 2-16, "Seasonal/Intermittent, Temporary and Term Employment";
- Administrative Practice 2-24, "Ethics";
- Administrative Practice 4-10, "Purchasing";
- Administrative Practice 6-13, "Electronic Communications Policy"; and,
- Maryland Whistleblower Law.

1 **APPLICATION** This Administrative Practice applies to all employees including Merit System and contract
2 employees, volunteers, and appointed officials. In the event that any portion of this
3 Administrative Practice conflicts with a Collective Bargaining Agreement, the Agreement
4 shall prevail for members of the respective Collective Bargaining Unit.
5

6 **DEFINITIONS** In the context of this Administrative Practice, the terms below are defined as follows:
7

8 **Appointed Officers:** This term refers collectively to the following positions:
9 the Executive Director, the General Counsel, and the Secretary-Treasurer.
10

11 **The Commission:** The governing body of the Maryland-National Capital Park and
12 Planning Commission (“M-NCPPC” or agency) which is comprised of five members from
13 each of the agency’s two Planning Boards for Montgomery County and Prince
14 George’s County.
15

16 **Commissioners:** Members of the Commission.
17

18 **Conflict of Interest:** Any relationship, which is or appears to be not in the best interest of
19 the organization. A conflict of interest would prejudice an individual’s ability to carry out
20 their duties and responsibilities objectively. Conflict of interest is further defined in these
21 related Commission Administrative Practices:

- 22 ▪ Administrative Practice 2-14, “Non-Commission Employment and Non-Commission
23 Business”.
 - 24 ▪ Administrative Practice 2-14, “Ethics” (ethical standards).
 - 25 ▪ Administrative Practice 4-10, “Purchasing”.
- 26

27 **Executive Committee:** A three-member committee that is comprised of the
28 Commission Chair, the Commission Vice-Chair, and the Executive Director.
29

30 **Fraud, Waste and Abuse:**

- 31 ▪ **Fraud:** Any act, omission, fraud statement/report or concealment involving the
32 intentional breach of a legal or equitable duty or the violation of federal, state, local
33 laws or M-NCPPC policies which results in damage to the agency in any way,
34 including, without limitation, the misappropriation of any M-NCPPC
35 property/resources as defined below, including cash. Fraud includes, without
36 limitation, false financial reporting.
- 37 ▪ **Waste:** Neglect and/or other improper conduct that result in destruction, damage or
38 loss in value of M-NCPPC property/resources.
- 39 ▪ **Abuse:** Improper use or misapplication of actual or apparent M-NCPPC authority,
40 including, without limitation, authority granted or exercised in conjunction with the
41 Commission Merit System Rules and Regulations or other official agency policies,
42 Administrative Practices or Procedures.
43

44 Examples of “**fraud, waste, and abuse**” include but, are not limited to, theft, potential or
45 actual conflicts of interest as defined in various Administrative Practices referenced
46 above, abuse of office, trust or other fiduciary obligation, corruption, violations of

1 federal, state or local law or regulations, acceptance of bribes and prohibited gratuities
2 and vendor kickbacks.

3
4 **Internal Audit:** Office of the M-NCPPC that conducts internal auditing functions and
5 special investigations.

6
7 **The Maryland-National Capital Park and Planning Commission:** For purposes of this
8 Practice, "M-NCPPC" or "agency" shall be used to reference the entity acting in its
9 organizational capacity.

10
11 **M-NCPPC Property/Resources:** Any service or physical asset owned, purchased, leased,
12 or under control of the M-NCPPC. This means (a) real property, (b) personal property
13 whether tangible or intangible, or (c) rights of the agency existing under contract. M-
14 NCPPC property/resources includes, but is not limited to, cash (currency, checks, money
15 orders, credit card receipts); facilities; general equipment and tools; vehicles and
16 machinery; office equipment and supplies; computer hardware, software, and other
17 electronic equipment; printers and copiers; telecommunication services such as
18 telephones; mobile devices; facsimile machines; internet/intranet; electronic mail and
19 data stored on, received by, or transmitted by the agency's operating systems; M-NCPPC-
20 issued uniforms, and staff services delivered by employees, contractors, or volunteers of
21 the agency.

22
23 **POLICY**

24 The M-NCPPC prohibits all conduct constituting fraud, waste, and abuse. This prohibition
25 covers the participation in, or assistance of others engaged in fraud, waste, or abuse,
26 including specifically and without limitation, any intentional acts or omissions that have
the purpose or effect of concealing fraud, waste, or abuse.

27 The use of M-NCPPC property/resources is intended for the conduction of official
28 business of the agency. The use of agency property/resources for non-M-NCPPC
29 employment, non-agency business, or for personal gain is prohibited unless specifically
30 permitted under "Allowable Exceptions" in Administrative Practice 2-15, titled *Employee*
31 *Use of Commission Property/Resources*. The terms "Non-Commission employment" and
32 "Non-Commission business" are defined within Administrative Practice 2-14, titled *Non-*
33 *Commission Employment and Non-Commission Business*."

34 The M-NCPPC requires all individuals covered by this policy, including Merit System and
35 contract employees, volunteers, appointed officials, vendors and individuals doing or
36 seeking to do business with the M-NCPPC, to:

- 37 ■ Refrain from committing fraud, waste, and abuse with respect to agency
38 property/resources.
- 39 ■ Refrain from participating in or assisting others engaged in fraud, waste or abuse,
40 including specifically and without limitation any intentional acts or omissions that
41 have the purpose or effect of concealing fraud, waste, or abuse.
- 42 ■ Report any known or suspected instances of fraud, waste, or abuse by any person or
43 entity including, but not limited to, M-NCPPC employees and appointed officials,
44 volunteers, vendors doing, or seeking to do, business with the agency, or any other

1 individual using M-NCPPC property/resources. Reports shall be made in accordance
2 with Section II., Allegations of Fraud, Waste, or Abuse

- 3 ▪ Cooperate fully in the review of reported allegations. Individuals, including
4 managers, are required to cooperate in any investigation conducted by any unit
5 authorized by the M-NCPPC. Cooperation includes, without limitation, providing
6 relevant documents, participating in requested interviews, and providing sworn or
7 recorded statements.
- 8 ▪ Refrain from retaliation on the basis of an individual's cooperation with the review of
9 allegations.

10
11 *Note to the Commission: the paragraph below (reflected through ~~strikeout~~) stated the*
12 *prohibition on retaliation against individuals who filed reports of fraud, waste and abuse.*
13 *This language, which already exists in the current adopted version of Practice 3-13, was*
14 *the basis of two concerns raised by the Audit Committee and the Commission. It is being*
15 *recommended by staff for deletion and replacement with new text based on review of*
16 *two related concerns:*

17 *Concern 1: The existing language may give an individual the impression that if they*
18 *report fraud, waste and abuse, that he/she cannot be subject to any action (e.g.*
19 *discipline) even if he/she was actually found to be involved in the incident.*

20
21 *Concern 2: Are protections consistent with whistleblower laws?*

22
23 *The Maryland Whistleblower law was reviewed. This review found that existing policy*
24 *was consistent with protections afforded to persons filing concerns which relate to*
25 *mismanagement, abuse of authority and other reasons covered under the definition of*
26 *fraud, waste and abuse. However, the policy could be further refined to explain the*
27 *application of the law. As such, staff recommends amending the section as follows:*
28 *Delete lines 29-30 and replace with new text that is reflected through shading.*

29 ~~Individuals shall not suffer any adverse consequences from the agency as a result of a~~
30 ~~report made in good faith under the provisions of this Administrative Practice.~~

31 Management may not retaliate against any employee for making a report in good faith
32 pursuant to provisions of this Administrative Practice. In accordance with the Maryland
33 Whistleblower law, management may not take, or refuse to take, any personnel action as
34 a reprisal against an employee in connection with reporting information that the
35 employee reasonably believes supports a violation of fraud, waste or abuse as outlined in
36 this Practice.

37
38 Any individual who is found to be engaged in fraud, waste or abuse, or who fails to meet
39 any other requirements outlined in this document ~~above~~, is in violation of this policy.
40 Reporting of fraud, waste and abuse does not excuse any violation of policy. Violations
41 shall be handled consistent with relevant Commission policies and applicable laws (see
42 also, Section titled Violations).

43 44 **RESPONSIBILITIES**

45 Responsibilities for implementing this policy and handling concerns of fraud, waste and
abuse are outlined below.

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I. Communication of Policy:

- Management shall ensure that this policy is well communicated through supervisory communications, agency training, publications, and/or website access.
- Managers are responsible for ensuring that employees under their supervision understand and comply with the provisions of this Administrative Practice.
- The Department of Finance is responsible for communicating and providing of this policy to all vendors.

II. Allegations of Fraud, Waste, or Abuse:

Individuals are provided a number of options for reporting fraud, waste and abuse. Reports of fraud, waste, and abuse shall be reviewed in a timely manner and investigated, as appropriate, in accordance with this Administrative Practice.

A. Reporting Concerns

Individuals may report concerns in writing or orally.

- **Employees/ Volunteers/Management** are required to report any suspected or known fraud, waste, or abuse. Individuals may direct their concerns to any of the following resources, as appropriate, given the circumstances of the matter:
 - The Department Director responsible for the program in which Fraud, Waste and Abuse is suspected.
 - M-NCPPC’s Internal Audit Office: (301) 454-1441; 6611 Kenilworth Avenue, Riverdale Maryland 20737. Online reporting via email to _____:
 - The M-NCPPC Fraud, Waste and Abuse Hot Line at 1-800-363-5524;
 - Park Police at:
 - 301-949-8010 for Montgomery offices/operations
 - 301-459-9088 for Prince George’s and bi-county offices/operations;
 - or
 - The Executive Director at 301-454-1740. All allegations of fraud, waste and abuse involving the Internal Audit Office shall be reported directly to the Executive Director.
- **Vendors** shall report any suspected or known fraud, waste, or abuse directly to the Secretary Treasurer at 301-454-1540.

1 **B. Handling of Reported Concerns**

2 While concerns of fraud, waste and abuse may be communicated in writing or orally,
3 the intake source of such reports shall ensure that any information received is
4 documented in writing.

5
6 **▪ Department Directors/Management**

- 7 - Will take reasonable steps, to the extent legally viable, to maintain the
8 confidentiality of any individual who makes a report under this
9 Administrative Practice.

10
11 Consistent with Section titled Policy, management may not retaliate against
12 any employee for making a report in good faith pursuant to provisions of this
13 Administrative Practice (see also, Section titled Policy).

- 14
15 - If an allegation of fraud, waste, and abuse is suspected, known, or filed
16 directly with the Department Director, he/she must promptly report the
17 matter to the Internal Audit Office. The matter must also be reported to the
18 Park Police, if criminal activity is apparent or suspected.

19
20 *Note to the Commission: the amendment (below) clarifies that*
21 *allegations against the Internal Audit Office must be referred directly to*
22 *the Executive Director.*

23
24 Allegations of fraud, waste, and abuse that involve any member of the
25 internal Audit Office must be directed to the Executive Director.

- 26
27 - Management must report to the Secretary-Treasurer for review, any
28 instances of suspected non-compliance by vendors or other individuals
29 doing/seeking to do business with the M-NCPPC.

30
31 **▪ Internal Audit Office**

- 32 - Upon receipt of an allegation of fraud, waste and abuse from
33 employees/vendors/management, the Office shall review the concern to
34 determine necessary follow up actions. (See also Section III, Investigation of
35 Reports of Fraud, Waste, or Abuse.)
- 36 ○ The Internal Audit Office shall ensure that the concern is shared with the
37 affected Department Director, as appropriate.
 - 38 ○ The Executive Director shall be advised on any allegation affecting any
39 employees, volunteers and management to ensure relevant review of
40 employment concerns including collective bargaining provisions.
- 41
42 - Allegations concerning noncompliance from vendors or other individuals
43 doing/seeking to do business with the M-NCPPC shall be referred to the
44 Secretary-Treasurer for review.

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- **Internal Audit Office** (continued)

- **Required Record Keeping**

The Internal Audit Office will track all allegations of fraud, waste and abuse. In cases where an investigation is warranted, notification shall be provided to the Commission Chair.

As part of the annual process, Internal Audit will meet with the Executive Director and the Secretary-Treasurer to review the list, in its entirety, of all allegations reported during the previous fiscal year.

Note to the Commission: the additional amendment (below) incorporates the Commission's suggestion that the General Counsel should be consulted on any fraud/waste/abuse allegations which involve the Internal Audit Office.

- **The Executive Director**

- Will forward suspected or known fraud, waste, or abuse to the Internal Audit Office. A copy of the concern shall be shared with the affected Department as appropriate. Allegations of fraud, waste and abuse involving employees of the Internal Audit Office shall be discussed with the Commission Chair, the Commission Vice-Chair, and the General Counsel for appropriate handling.
 - Shall advise the Commission Chair and the Commission Vice-Chair of any allegations against Department Directors, Deputy Directors, Board Members, Auditors, and/or Division Chiefs.
 - Must communicate to the Internal Audit Office and the affected department, as appropriate, any concerns related to investigations including relevant collective bargaining provisions.
 - In preparation of external financial reviews of the agency, shall meet with the Internal Audit Office to examine its tracked listing of all reported or suspected cases of fraud, waste and abuse.

- **The Secretary-Treasurer**

- Shall receive and review all concerns related to vendors or other individuals doing/seeking to do business with the Commission.
 - Must forward to the Internal Audit Office any known or suspected cases of fraud, waste, or abuse. A copy of the concern shall be forwarded to the Executive Director.
 - In preparation of external financial reviews of the agency, shall meet with the Internal Audit Office to examine its tracked listing of all reported or suspected cases of fraud, waste and abuse.

- **The Park Police**

Shall communicate any suspected or known fraud, waste and abuse with Internal Audit.

1
2 **III. Investigation of Reports of Fraud, Waste, or Abuse**
3

4 **A. Investigation of Allegations Filed by Employees/Volunteers/Management**

5 Outside of vendor related concerns, the appropriate investigative approach shall be
6 determined by the Internal Audit Office after a review of the specific allegation(s),
7 the scope of the violation(s), and the alleged parties involved. Pursuant to
8 Administrative Practice 1-31, the Commission’s Audit Committee provides oversight
9 of the Internal Audit Function and issues operating procedures for audits and
10 investigations.

11
12 While these allegations of fraud, waste, and abuse will be pursued by the Internal
13 Audit Office, in some cases it may be appropriate for other parties to assist with or
14 perform an investigation (e.g., Park Police, other law enforcement agencies, the
15 Office of the General Counsel, external resources, etc.).

- 16
17
 - 18 ■ As appropriate, the Internal Audit Office should consult law enforcement
 - 19 agencies and/or the Office of the General Counsel on matters pertaining to
 - 20 potential or known criminal activities to ensure that necessary investigative
 - 21 measures are taken.
 - 22 ■ The Executive Director shall advise the Internal Audit Office on any concerns
 - 23 pertaining to investigations involving employees represented by collective
 - 24 bargaining.

25 **B. Investigation of Vendor Related Allegations**

26 The appropriate investigative approach shall be determined by the Secretary-
27 Treasurer consistent with relevant procurement policies and regulations.

28
29 **IV. Issuance and Review of Fraud, Waste and Abuse Investigation Reports**

30 Final investigation reports shall be distributed to the Audit Committee, the Commission
31 Chair and the Commission Vice-Chair, and the Director of the affected department.
32 Copies of the reports shall also be provided to the Commission’s appointed officers (the
33 Executive Director, the General Counsel, and the Secretary Treasurer).

- 34
 - 35 ■ The General Counsel shall furnish advice and guidance on legal issues and procedures
 - 36 to be followed.
 - 37 ■ The Executive Director shall ensure that findings of fraud, waste, or abuse are
 - 38 addressed consistently.
 - 39 ■ The Department Director shall respond within 30 calendar days to any
 - 40 recommendations and/or corrective actions from a Final Investigation Report. Such
 - 41 response shall set forth a schedule for implementation of recommendations and/or
 - 42 corrective actions, as appropriate.
 - 43 ■ The Audit Committee shall include findings and recommendations/corrective actions
 - 44 of incidents of fraud, waste and abuse as part of the regular audit/financial reports to
 - 45 the Commission Chair and Vice Chair.

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VIOLATIONS

Employees, who violate any portion of this Administrative Practice, are subject to disciplinary action up to and including termination of employment. Disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations, Chapter 1900, Workplace Conduct and Discipline; applicable Collective Bargaining Agreements; and Commission Administrative Practice 2-16, "Seasonal/Intermittent, Temporary, and Term Employment," Discipline Section. Employees covered under the Law Enforcement Office's Bill of Rights (LEOBR) shall be afforded their rights pursuant to the LEOBR statute as well as any applicable Collective Bargaining Agreement. Department Directors shall consult with the Human Resources Director before implementing any disciplinary action to ensure appropriate action is taken.

In addition to disciplinary actions up to termination, violations of policy also may result in criminal prosecution and recovery of losses. Any expenses incurred from an employees unauthorized use/misuse or loss of M-NCPPC property/resources may be recovered by the agency through direct repayment of such expenses by the employee, or collection of such expenses through payroll deduction. The M-NCPPC reserves the right to determine the method of recovery of such expenses and to pursue legal action for collection of any monies owed by an employee. Disciplinary and recovery actions shall be coordinated through the Department of Human Resources and Management and the Office of the General Counsel.

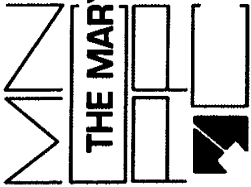
Vendors may be held financially responsible for loss/damage to M-NCPPC property/resources resulting from violation of this Administrative Practice or any applicable federal, state or local law. Vendors and individuals doing business, or seeking to do business, with the M-NCPPC are required to comply with the terms of their contract or agreement and all applicable Administrative Practices and Procedures. Failure to comply may result in the vendor or individual being debarred from doing business with the agency or, if applicable, action pursuant to Administrative Practices and Procedures and federal, state or local laws.

Any sanctions for violations by vendors or persons conducting/wishing to do business with the agency shall be handled pursuant to Administrative Practice 4-10, Purchasing, and any applicable contract provisions or laws.

PROCEDURES



Executive Director shall issue Administrative Procedures as needed, for implementation of this Administrative Practice.

Pursuant to Administrative Practice 1-31, the Commission's Audit Committee shall issue operating procedures governing the investigation process used by the Internal Audit Office.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue Riverdale, Maryland 20730

February 12, 2013

To: The Commission
Via: Patricia Barney, Executive Director 
From: Anju Bennett, Chief 
Policy and Management Operations Division
Subject: Show Place Arena Audit Committee Recommendations

The attached chart represents the quarterly update of the agency's progress with respect to implementing Audit Committee recommendations from the Show Place Arena audit.

Attachment

ITEM 5c

Quarterly Update

Implementation of Show Place Arena Audit Committee Recommendations Progress Report and Timeline — Items completed as of January 2013

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
<p>A. Restore Management Oversight</p>	<p>Parks and Recreation Department (PGCPR)</p>	<p>Finance</p>	<p><u>Steps to be completed by Parks and Recreation (PGCPR) and Finance</u></p> <ul style="list-style-type: none"> ▪ Review and retool approval process for financial transactions including purchasing. ▪ Pay special attention to hospitality and advertising. ▪ Finalize integration of the facility's on-site accounting systems with the M-NCPPC financial network. <p><u>Steps being completed by PGCPR</u></p> <ul style="list-style-type: none"> ▪ All managers completed procurement training fall 2011. ▪ Vendor agreements/contracts internal only to Show Place replaced with those reviewed by Legal, Purchasing, Risk Management and signed by Sec Treasurer and Executive Director. ▪ All internal hospitality will be tracked through a separate fund so it is not comingled through the Food Service fund that strictly tracks resale food. Purchases for internal hospitality will use FPOs; petty cash expenditure will be reviewed/approved at Chief level. ▪ All monthly financial transactions (Petty Cash, Remittance Advice— Box office sales, Purchase cards, etc.) will be submitted to Division Chief for review and final approval/oversight. Rentals have started going through the online Smartlink system from July 2012 for greater oversight. ▪ <u>Concession sales will be moving to an automated system in late April 2013 to allow for use of credit cards and reduce cash sales.</u> ▪ Review of checking accounts and petty cash funds by Finance's Cash Management. ▪ All rentals and food/catering for rental events to be captured through automated system (Smartlink) from July. 	<p><u>PGCPR and Finance</u></p> <ul style="list-style-type: none"> ▪ Review process for approval of financial transactions and ensure facility contracts are executed through online Smartlink system (Fall 2012) ▪ Smartlink data will be incorporated into new financial Enterprise Resource Planning system (ERP) for comprehensive tracking and accountability (ERP launch by fall 2013). <p><u>PGCPR</u></p> <p>All items below completed July 2012, unless otherwise indicated through underlining.</p>	<p>Substantially Complete.</p> <p><u>PGCPR and Finance</u></p> <ul style="list-style-type: none"> ▪ Online tracking of contracts completed. All new contracts now executed through Smartlink. If older rental agreements are renewed, they too will be migrated to Smartlink. ▪ Design of ERP completed Dec. 2012. Testing underway with full launch on schedule. <p><u>PGCPR</u></p> <p>All steps identified in 4th column were completed by July 2012 with the exception of concession sales automation.</p> <p>The software system previously being considered (GENWARE) was found to be inadequate for handling concessions operations. PGCPR Information Technology and Communications Unit and Finance are working with Smartlink administrators to identify a better system. PGCPR is establishing a new time table for this item.</p>

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
<p>B. Improve Internal Control Environment</p>	<p>Finance</p>	<p>Internal Audit and PG CPR</p>	<p><u>Steps being completed by Finance/PG CPR/Audit</u></p> <ul style="list-style-type: none"> ▪ Review internal control environment for inventory tracking and sales based on new approval protocols. ▪ Revise purchasing approval processes for greater oversight to include review and approval by Division Chief and Department Directors. <p><u>Steps to be completed by PG CPR</u></p> <p>In addition to items listed for Recommendation A, these additional steps will be taken:</p> <ul style="list-style-type: none"> ▪ Showplace staff covering food services will implement strategies from other departmental food service operations to improve handling food inventory and reduce/track waste. ▪ Food sales at Showplace will be captured using automated purchase tracking system (GENware) in late fall. 	<p><u>Finance and PG CPR</u></p> <p>PG CPR will ensure purchasing actions comply with purchasing requirements issued by Finance. June/July 2012.</p> <p><u>Audit</u></p> <p>Audit will complete review of implemented controls -- April 2013.</p> <p><u>PG CPR</u></p> <ul style="list-style-type: none"> ▪ First bullet in column 4 to be completed by November 2012. ▪ Automation to be fully implemented by April 2013. 	<p>Substantially Complete.</p> <p><u>Finance and PG CPR</u></p> <p>Updated purchasing processes completed as of July 2012.</p> <p><u>Audit</u></p> <p>Audit review currently underway.</p> <p><u>PG CPR</u></p> <p>Bullet #1: Completed. Bullet #2: Automation of food services awaiting availability of appropriate software system as "GENware" is no longer being considered.</p>

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
C. Improve Time and Attendance Recordkeeping at Show Place	Finance PGCPR	Policy Office	<p>Steps to be completed by Finance/Policy Office</p> <ul style="list-style-type: none"> ▪ Develop oversight protocols/methods to better assure compliance with policies by employees with irregular schedules and offsite work. ▪ Finance and Policy Office to review current Time and Attendance policies to ensure adequate controls are in place. ▪ May require specific payroll recordkeeping guidance from Finance. <p>Steps to be completed by PGCPR</p> <ul style="list-style-type: none"> ▪ All staff must review written leave policies; leave requests must be submitted/approved in writing. ▪ All overtime must be approved by Deputy Director. ▪ Division Chief/managers must conduct spot checks during the week/weekend events to see who is working. ▪ General Manager for Showplace must review all time clock entries to ensure that attendance records are accurate. In the event of missed entries, the General Manager must meet with employee before signing off on adjustments. ▪ Managers must request and use Flextime w/in same pay period. ▪ Full-time manager must approve seasonal staff timecards prior to approval by General Manager. ▪ 'Core' work hours identified for all staff. Staff must complete weekly projected work schedules to show when they will be working at the facility, providing coverage for events, or attending meetings for work outside the facility. ▪ All managers must use a daily 'in and out' board for tracking lunch breaks or attending meetings outside of the building. 	<p>Finance/Policy Office Finance and Policy staff will review agency-wide timekeeping and attendance policies for adequate internal controls.</p> <p>Recommendations will be presented to Department Heads in September 2012.</p> <p>PGCPR Items in column 4 to be completed by November 2012.</p>	<p>All Items Complete. No further Action Required.</p> <p>Finance/Policy Office Time and Attendance policies reviewed. Findings, which were presented to Department Directors in September, reveal that policy already outlines comprehensive direction on management and employee responsibilities for internal controls. Accountability concerns have been addressed by PGCPR to ensure compliance with policy (see below).</p> <p>PGCPR All steps in column 4 have been completed September 2012.</p> <p>PGCPR indicates that there is greater Division level oversight to ensure compliance with existing policy directives such as:</p> <ul style="list-style-type: none"> ▪ Management's requirement to maintain up-to-date work schedules that reflect the work program and job duties assigned to the employee. ▪ Employee's compliance with established attendance requirements, accurately report time worked/leave taken. ▪ Management's responsibility to ensure punctual attendance, and accurate record keeping of time worked/leave taken.

<p>1. Report Recommendation D. Reevaluate Policies and Implementation Procedures for Outside Employment</p>	<p>2. Lead Policy Office And Legal</p>	<p>3. Support Team(s) Human Resources Operating Departments</p>	<p>4. Specifics Steps to be Completed <u>Steps to be completed by Policy Team/Legal/Human Resources Division</u></p> <ul style="list-style-type: none"> ▪ Clarify; focus charitable/civic orgs in context of official business. ▪ Communicate. ▪ Provide interim guidance. ▪ Train (HR and Legal). <p><u>Steps being completed by PGCPR</u></p> <ul style="list-style-type: none"> ▪ All full time staff must be provided policy for outside employment and those with secondary employment must complete request forms. ▪ Meeting participation with external groups/organizations such as the Maryland Horse Council or the County Fair Board, must receive prior permission from Deputy Director (via Arts and Cultural Heritage Division Chief). Approved meetings are indicated in the employee's projected weekly work schedule. 	<p>5. Anticipated Completion Date <u>Legal/ Policy Team/ /Human Resources Division</u> By September 2012, complete analysis of policy pertaining to secondary employment. See notes under status. <u>PGCPR</u> Complete by November 2011 and ongoing.</p>	<p>6. Status <u>Review Underway.</u> <u>Legal/Policy Office</u> The Legal and Policy offices completed preliminary review of secondary employment policies (September 2012). Review reveals many portions of the secondary employment policy are viable and more comprehensive than surrounding jurisdictions. Some amendments are necessary to strengthen coverage of work with volunteer organizations, boards, and other similar entities. It became evident that a broader review of ethics standards must be conducted concurrently as many policies are interrelated (e.g. areas including financial disclosure, general ethics/conduct, use of agency resources, etc.) As such, this review has been broadened to provide a more complete and effective analysis of standards. Following this review and input from Labor Counsel on collective bargaining requirements, a plan of action will be presented to management. The outside employment policy work will be presented in March/April, with concurrent work on other ethics policies. <u>PGCPR</u> All items in column 4 have been completed.</p>
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1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
<p>E. Control Advertising Expenditures at Appropriate Level</p>	<p>Parks and Recreation</p>	<p>With input/approval by Prince George's County Planning Board</p>	<p><u>Steps being completed by PG CPR</u></p> <ul style="list-style-type: none"> ▪ Annual advertising budget approval by Prince George's County Planning Board. ▪ Develop oversight protocols/methods to better assure expenditures to advertise are prudent; track to see intended results. ▪ Consider recommendations from Stadium Authority work - benchmarks/best practices. <p><u>Steps completed by PG CPR as November 2011</u></p> <ul style="list-style-type: none"> ▪ Since fall of 2011, little spent on advertising with the exception of prior commitments from previous management. ▪ When possible, Show Place combines advertising with other department rental facilities. Show Place staff is working with Public Affairs staff to revise website and create e-newsletter for operations to attract clients and control advertising costs. ▪ All advertising for Show Place now communicated as an M-NCPPC facility and not a stand-alone operation. ▪ Wherever possible, memberships to external organizations will be maintained under the departmental or agency name rather than specifically for Show Place Arena. All memberships must be approved at least at the Division Chief level. ▪ All requests for sponsorships and/or fee waivers are sent to the Department Director for approval (Fall 2011). 	<p><u>PG CPR</u></p> <ul style="list-style-type: none"> ▪ Annually July 2012-June 2013. ▪ April 2013. ▪ November 2012-April 2013. 	<p>Partially Complete.</p> <p><u>PG CPR</u> Budget approval protocols developed and will be implemented with upcoming budget cycle.</p> <p>Awaiting Stadium Authority study. Recommendations will be implemented following its issuance. Study was expected December 2012 with implementation to follow in early Spring. However, PG CPR has not received study results. Meanwhile, department is presently working toward filling vacant position.</p>

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
<p>F. Control Hospitality Expenditures at Appropriate Level</p>	<p>Parks and Recreation</p>	<p>With input /approval by Prince George's County Planning Board</p>	<p>Steps to be completed by Parks and Recreation</p> <ul style="list-style-type: none"> ▪ Develop oversight protocols/methods to better assure prudent expenditures. ▪ Track to see intended results. <p>Steps above are being implemented by:</p> <ul style="list-style-type: none"> ▪ Creating a separate line item within accounting/recordkeeping systems to track hospitality (rental event related food services) so they are not comingled with other food services intended for direct sale (concessions). This may not happen as a line item until FY14 budget requests are done. For FY13, Arena management will begin to charge these items to the General Management OCA. ▪ Since beginning of 2012, approving all hospitality events (rental and related food) at Division Chief level. Records of all approvals are maintained. 	<p>To be completed starting with FY13 budget. Line item budget targeted for FY14.</p>	<p>Items Complete. No Further Action Required.</p> <p>PGCPR</p> <p>Separate line item for hospitality has been coded for FY14 budget.</p> <p>Second bullet in column 4 completed at the beginning of 2012.</p>

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
<p>G. Consider Measures to Protect Integrity of Investigations</p>	<p>DHRM (Policy + HR), Internal Audit /Legal</p>		<ul style="list-style-type: none"> ▪ Consider opportunities to improve available enforcement mechanisms to prevent disruptions. ▪ Evaluate enforcement and consider whether zero-tolerance is appropriate; this may be more of a question of application of the zero tolerance policy rather than a policy amendment if the policy already addresses a strong position. ▪ Determine whether policy change is required or whether the additional training is required. If training is required, effort to be headed by Legal. 	<ul style="list-style-type: none"> ▪ Complete review of concerns by fall 2012 and present findings to management. ▪ If policy change required, new changes will be presented to Commission by January 2013. 	<p>Policy Review Complete and Changes Adopted.</p> <ul style="list-style-type: none"> ▪ Policy staff completed analysis of Practice 1-31 which governs auditing/investigation responsibilities as they apply to employees, management, and investigators. ▪ Staff recommended policy amendments to clarify roles of investigators as responsibilities for other parties were already sufficiently addressed. Proposed amendments reviewed with Audit Committee, Executive Committee, Department Directors, Internal Audit, and Legal. ▪ Updated policy adopted by Commission on January 16, 2013 and distributed to workforce.

<p>1. Report Recommendation</p> <p>H. Consider Technology Systems to Detect/Recover Improper Deletions</p>	<p>2. Lead</p> <p>Chief Information Officer and Departmental Chief Technology Officers</p>	<p>3. Support Team(s)</p>	<p>4. Specifics Steps to be Completed</p> <ul style="list-style-type: none"> ▪ Evaluate and report on capabilities to present, detect, and recover deletion of mail data. ▪ Identify feasible improvements. 	<p>5. Anticipated Completion Date</p> <p><u>CIO/Departments</u> September/October 2012.</p>	<p>6. Status</p> <p>Substantially Complete.</p> <p><u>CIO/Departments</u> This item is completed for all emails created on/after September 1, 2011. Agency (with exception of Park Police) fully migrated to "Cloud" based email system in September 2011; technical updates were implemented in May 2012 to enhance data storage capabilities that allow for restoration and detection of emails including deleted history.</p> <p>Emails prior to migration have not been moved to the "Cloud" platform. These emails are stored through technology archives. It is uncertain that there is a need to move these to the "Cloud" system due to costs and limited use of historical data.</p> <p>With respect to integration of Park Police to "Cloud-based" email system, this review is presently being conducted by the two parks departments for viability and cost benefit.</p>
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1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
I. Investigate Source of Unauthorized Disclosure of Confidential Material and Address Training Requirements	Legal	Public Affairs	<p>Primary focus of this recommendation is training of workforce/key staff to understand requirements for confidentiality and consequences of unauthorized disclosure.</p> <p>Steps to be completed by Legal Investigate unauthorized disclosure of information to the media.</p> <p>Steps to be completed by Public Affairs and Legal Public affairs to clarify roles for dissemination of information to media. Will be reviewed by Department Directors and Legal. Training will follow.</p>	<p>Legal April 2013.</p> <p>Legal and Public Affairs June 2013.</p>	<p>On Schedule.</p> <p>Legal - Disclosure of Information Investigation activities initiated July 2012. Review is ongoing.</p> <p>Public Affairs/Legal - Training Public Affairs from both sides of agency reviewing current agency standards on public information for revision/update. These updates will be developed into training by Legal.</p>
J. Require Periodic Status Reports to Commission with copy to Audit Committee	Executive Director		<ul style="list-style-type: none"> ▪ Develop timeframe for implementation. ▪ Prepare quarterly status reports on progress of recommendations. 	<p>Executive Director will present timeline by July 2012.</p> <p>Quarterly updates will be presented to Commission with copy to Audit Committee.</p>	<p>On Schedule.</p>
K. Require a Review of Similar Facilities	Deputy Directors for Parks and Recreation / Montgomery County Parks Departments Internal Audit	Finance	<ul style="list-style-type: none"> ▪ Undertake a review of all facilities that have similar budget flexibility and discretionary marketing budgets to identify similarities, and report on appropriateness of financial arrangement (such as other enterprise facilities). ▪ PG CPR -- Review market study from the Maryland Stadium Authority MOU. ▪ Revise internal controls and processes as needed to include review of areas such as banking relationships (outside of Petty Cash, types of contractual arrangements into which the facility has entered; approval processes for financial transactions. 	<p>PG CPR/Montgomery Parks (MCP) Directors to provide listing of facilities by September 2012.</p> <p>Internal Audit, with input from Finance, should evaluate internal controls of facilities and recommend changes in controls. Initially this process was to be implemented by December 2012. However, Audit indicated that they are awaiting listing of facilities from departments.</p>	<p>Partially Complete.</p> <p>PG CPR/MCP Evaluation of facilities completed (Sept 2012).</p> <ul style="list-style-type: none"> ▪ PG CPR has identified a few similar facilities and will be forwarding listing directly to Audit Office for audits. ▪ MCP does not have similar operations but has large facilities. <p>Both departments to forward operational standards to Audit and Finance for review of internal controls and audits for compliance with established controls.</p>

1. Report Recommendation	2. Lead	3. Support Team(s)	4. Specifics Steps to be Completed	5. Anticipated Completion Date	6. Status
L. Mandatory Annual Audits	Internal Audit Chief	Internal Audit	Annual audit of Show Place Arena controls and processes outlined in report. Once fully implemented, annual reports will be determined.	Audit indicates that date will be determined with input of Audit Committee.	<p>On Schedule.</p> <p>Annual audit date will be established upon full implementation of Audit recommendations.</p>

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
LATE PERFORMANCE EVALUATION REPORT
BY DEPARTMENT AS OF JANUARY 2013

	31 - 60 DAYS		61 - 90 DAYS		91 + DAYS		DEPARTMENT TOTALS	
	12/12	01/13	12/12	01/13	12/12	01/13	12/12	01/13
CHAIRMAN, MONTGOMERY COUNTY	1	0	0	1	0	0	1	1
CHAIRMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	0	0	0	1	1	1	1
INTERNAL AUDIT	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	0	1	0	0	0	0	0	1
LEGAL DEPARTMENT	1	0	0	0	0	1	1	1
FINANCE DEPARTMENT	0	1	0	0	0	0	0	1
PRINCE GEORGE'S PLANNING	2	0	0	0	0	0	2	0
PRINCE GEORGE'S PARKS & RECREATION	0	2	0	0	0	0	0	2
MONTGOMERY COUNTY PARKS	0	0	0	0	0	0	0	0
MONTGOMERY COUNTY PLANNING	1	1	1	1	0	1	2	3
DEPARTMENT TOTAL BY DAYS LATE	5	5	1	2	1	3	7	10
COMMISSION WIDE TOTAL:							7	10

*DEPARTMENTS WITH RATINGS MORE THAN 60 DAYS LATE HAVE BEEN CONTACTED.

ITEM 6a



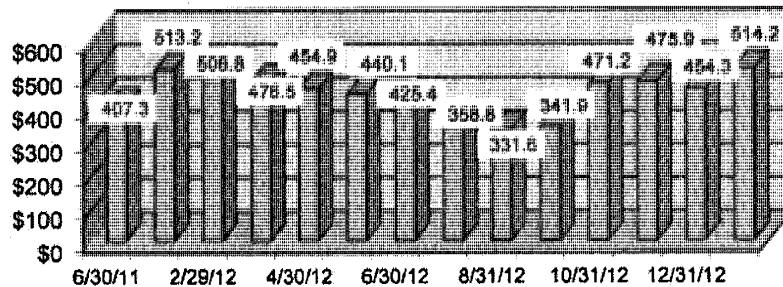
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 TREASURY OPERATIONS, FINANCE DEPARTMENT
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737
 Telephone (301) 454-1541 / Fax (301) 209-0413

MEMO

TO: Commissioners
VIA: Joseph Zimmerman, Secretary-Treasurer
FROM: Abbey Rodman, Investment & Treasury Operations Manager *[Signature]*
DATE: 2/6/2013
SUBJECT: Investment Report – January 2013

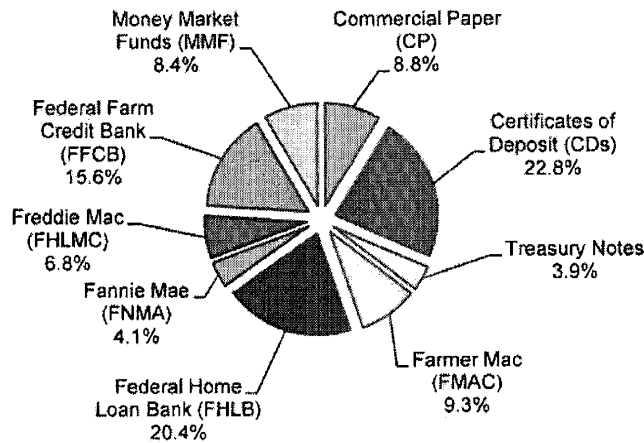
The Commission's pooled cash investment portfolio totaled \$514.2 million as of January 31, 2013, with a 13.19 % increase from December 31, 2012. Details are as follows:

Pooled Cash Portfolio Outstanding
 (in \$ mil.)



The composition of the pooled cash portfolio as of January 31, 2013 is summarized below:

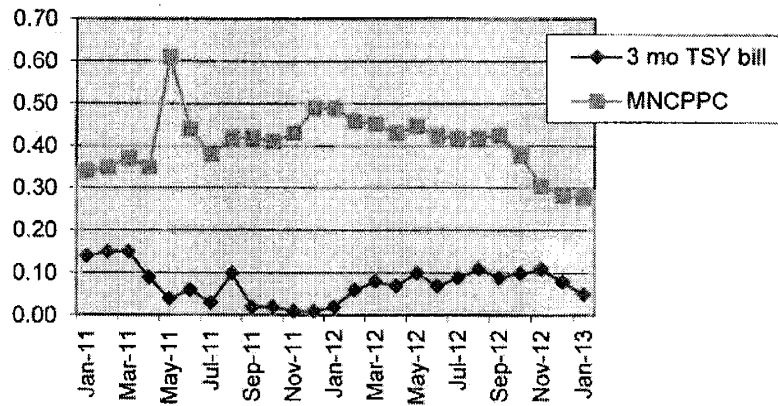
Pooled Cash Portfolio as of 01/31/13



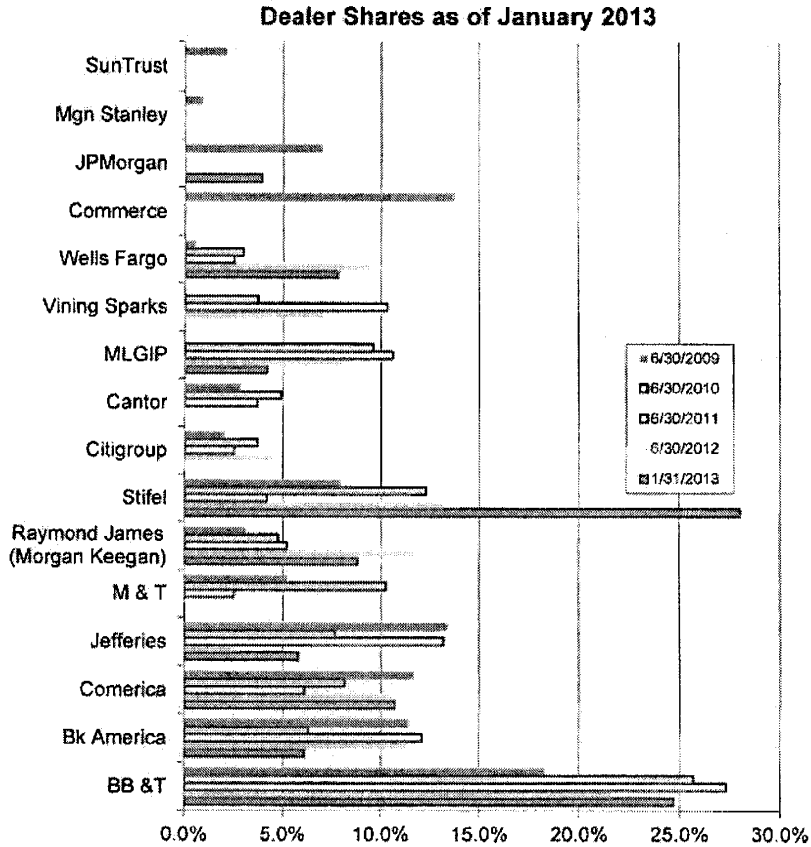
Current Investment Portfolio - January 2013				
Instrument	Policy Limit**	Actual	Par Value	Wtd. Avg. Return (B/E)
Certificates of Deposit	50%	23%	\$ 117,000,000	0.24%
Federal Home Loan Banks	20%	20%	105,000,000	0.26%
Federal Farm Credit Bureau	20%	16%	80,076,000	0.26%
Farmer Mac	20%	9%	48,000,000	0.27%
Commercial Paper	10%	9%	45,000,000	0.78%
Money Funds	25%	8%	43,188,442	n/a
Freddie Mac	20%	7%	35,000,000	0.29%
Fannie Mae	20%	4%	20,970,000	0.20%
Treasury Notes	100%	4%	20,000,000	0.23%
Bankers Acceptances	50%	0%	-	0.00%
Repurchase Agreements	60%	0%	-	0.00%
			<u>\$ 514,234,442</u>	<u>0.29%</u>

The pooled cash portfolio complied with all policy limits with regard to product types and proportions throughout the month.

MNCPPC Rate of Return vs. 3-mo. Treasuries



In addition to the product limits, portfolio purchases also adhered to the 30% limit per dealer. Dealer participation is shown below:



The market values of unspent debt balances (invested by T. Rowe Price) were as follows:

Market Value- 01/31/13	
Montgomery County (MC-2012A)	\$ 3,364,165
Montgomery County (MC-2012B)	1,310,940
	\$ 4,675,105

The Commission had debt service payments during the month totaling \$2,935,567, of which \$2,420,000 was principal and \$515,567 was interest.

Details by issue of debt outstanding as of January 31, 2013 appear below:

Debt Balances - January 2013					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
Bi-County					
Total Bi-County	\$ -	\$ -	0%		
Prince George's County					
KK-2 (Refunded AA-2)	17,300,000	10,707,663	62%	Apr-08	May-18
NN-2 (Refunded Z-2)	14,080,000	11,745,000	83%	Mar-10	May-21
EE-2	37,525,000	9,855,000	26%	Mar-04	Jan-24
PG-2012A	11,420,000	11,380,000	100%	Jun-12	Jun-24
JJ-2	8,900,000	7,125,000	80%	May-07	May-27
Total Prince George's County	\$ 89,225,000	\$ 50,812,663	57%		
Montgomery County					
Cabin John Ice	6,000,000	444,450	7%	Apr-99	Nov-13
HH-2	5,445,000	680,000	12%	Jul-05	Jul-14
DD-2(ALA)	1,550,000	305,000	20%	Dec-02	Dec-14
CC-2	12,155,000	555,000	5%	Dec-02	Dec-14
LL-2	8,405,000	6,190,000	74%	May-09	Nov-20
FF-2 (ALA)	2,000,000	1,360,000	68%	Nov-04	Dec-24
FF-2	4,000,000	1,040,000	26%	Nov-04	Dec-24
II-2	4,700,000	3,775,000	80%	Mar-07	Apr-27
MM-2	5,250,000	4,410,000	84%	May-09	Nov-28
MC-2012A	12,505,000	12,505,000	100%	Apr-12	Dec-32
MC-2012B	3,000,000	3,000,000	100%	Apr-12	Dec-32
Total Montgomery County	\$ 65,010,000	\$ 34,264,450	53%		
Total	\$ 154,235,000	\$ 85,077,113	55%		

ATTACHMENT A

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved March 21, 2012
 FISCAL YEAR 2013 - January 31, 2013

OBJECTIVES			Met Objective	Within Limits	Comments
Protection of principal			Yes		
Limiting types and amounts of securities	Limit			Yes	
	US Government	100%			
	US Federal Agencies - combined	60%			
	US Federal Agencies - each	20%			
	Repurchase Agreements	60%			
	CD's and Time Deposits	50%			
	Commercial Paper	10%			
	Money Market Mutual Funds	25%			
	MD Local Gov't Investment Pool	25%			
	Investing Bond Proceeds:				
	State and local agency securities	100%			
	Money Market Mutual Funds	10%			
	Bond Proceeds:			Yes	T. Rowe Price managed all funds within limits
	Highly-rated state / local agency securities				
	Highly-rated money market mutual funds				
	(Max. 10% in lower-rated funds)				
	Pre-qualify financial institutions, broker/dealers, intermediaries and advisers			Yes	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
	Ensure competition among participants	30%		Yes	No dealer share exceeded 30%
	Competitive Bidding			Yes	All purchases awarded competitively.
	Diversification of Maturities				
	Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.			Yes	All maturities within limits
	Require third-party collateral and safekeeping, and delivery-versus-payment settlement			Yes	M&T Investments serves as custodian, monitoring compliance daily
	Maintain sufficient liquidity		Yes		Sufficient funds available for all cash requirements during period
	Attain a market rate of return		Yes		Exceeded by 22 basis points.
	The pro-rated rates of return for the portfolio and T-bills were 0.29% and 0.07%, respectively.				



**Office of the General Counsel
Maryland-National Capital Park and Planning Commission**

Reply To

February 20, 2013

**Adrian R. Gardner
General Counsel
6611 Kenilworth Avenue, Suite 200
Riverdale, Maryland 20737
(301) 454-1670 • (301) 454-1674 fax**

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission
FROM: Adrian R. Gardner
General Counsel
RE: Litigation Report for the Month of January 2013

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, February 20, 2013. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

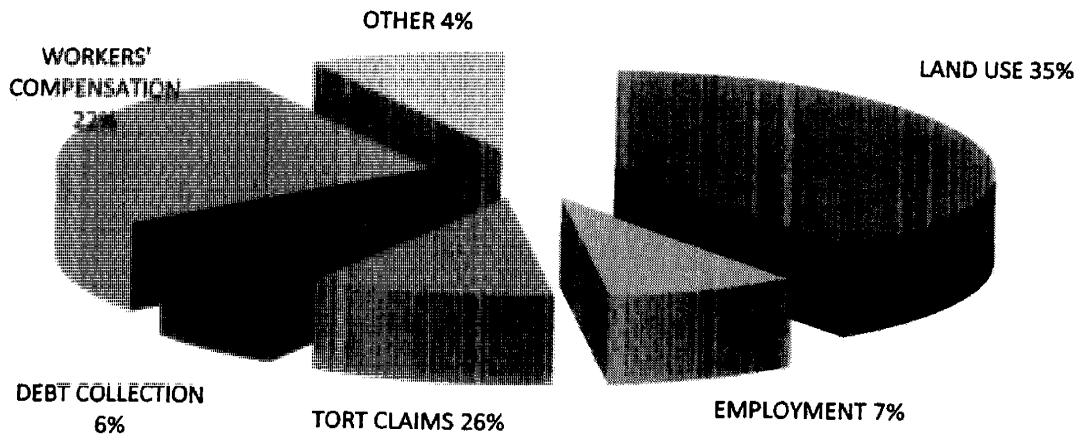
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Litigation Report Ordered By Court Jurisdiction Page 1 of 23

**Composition of Pending Litigation
(By Subject Matter and Forum as of January 2013)**

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use	10		4				14
Admin Appeal: Other							0
Land Use Dispute	1						1
Tort Claims	5						5
Employment Dispute		3	1				4
Contract Dispute	0						0
Property Dispute	1		1				2
Civil Enforcement	1						1
Workers' Compensation	8		2				10
Debt Collection	1						1
Bankruptcy							0
Miscellaneous	1		1				2
Per Forum Totals	34	3	11	0	0	0	40

OVERVIEW OF PENDING LITIGATION



By Major Case Categories

**Litigation Activity Summary
(As of January 2013)**

	Count For Month			Count For Fiscal Year 14			
	Pending Last Month	New Cases	Resolved Cases	Pending Prior F.Y.	New Cases F.YTD	Resolved Cases F.YTD	Pending Current Month
Admin Appeal: Land Use	16	1	3	16	1	3	14
Admin Appeal: Other	0			0			
Land Use Disputes	1			1			1
Tort Claims	5	2	2	5	2	2	5
Employment Disputes	4			4			4
Contract Disputes	1		1	1		1	0
Property Disputes	2			2			2
Civil Enforcement	1			1			1
Workers' Compensation	14		4	14		4	10
Debt Collection	3		2	3		2	1
Bankruptcy	0			0			
Miscellaneous	1	1		1	1		2
Totals	48	3	10	48	3	10	40

Index of New and Resolved Cases

A. New Trial Court Cases.

	<u>Unit</u>	<u>Subject Matter</u>
Butler v. Commission	PG Parks	Tort Claim
Jackson v. Commission	PG Parks	Tort Claim
Quick v. Commission	PG Parks	Miscellaneous
Mafinsky, et al. v. MCPB	MCPB	Admin Appeal: Land Use

B. New Appellate Court Cases.

C. Trial Court Cases Resolved.

Accokeek, Mattawoman, Piscataway Creeks, et al. v. Commission	PGPB	Admin Appeal: Land Use
Commission v. Batson	PG Parks	Workers' Compensation
Commission v. Hill	PG Parks	Workers' Compensation
Commission v. Kohleim	PG Parks	Debt Collection
Keller Brothers Inc. v. Commission	PGPB	Contract Dispute
Japones v. Montgomery	PG Parks	Tort Claim
Lawson v. Commission	PG Parks	Tort Claim
Commission v. Nyagbona	PG Parks	Debt Collection
Commission v. Pollard	MC Parks	Workers' Compensation
Commission v. Pollard	MC Parks	Workers' Compensation
Tipton, et al. v. Commission	PGPB	Admin Appeal: Land Use
Commission v. Johnson	MCPB	Admin Appeal: Land Use

D. Appellate Court Cases Resolved.

Office of the General Counsel
Litigation Report for January 2013
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Employee Retirement System	

Office of the General Counsel
Litigation Report for January 2013
Disposition of FY14 Closed Cases Sorted By Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources and Management		
Montgomery County Department of Planning		
Montgomery County Department of Parks		
Montgomery County Park Police		
Montgomery County Planning Board		
Sandler, et al. v. Montgomery County Planning Board	Petition for Judicial Review filed for Decision of the Montgomery County Planning Board regarding enforcement action: Violation of category I conservation easement in connection with forest conservation plan 120020730.	Final Order entered on 10/18/12 affirming the Planning Board's decision.
South-East Rural Civic Assn v. Montgomery County Planning Board	Petition for Judicial Review filed of the decision of the Montgomery County Planning Board in the case of Preliminary Plan 120100250 and Site Plan 820100080 First Baptist Church of Wheaton.	Final Order reversing the Planning Board's decision issued and remand to the Board to deny preliminary and site plans.
South-East Rural Olney Civic Assn et al. v. Montgomery County Planning Board	Civil Compliant for Declaratory Judgment and Injunctive Relief filed in connection with Preliminary Plan 120100250 and Site Plan 820100080.	Complaint voluntarily dismissed by Plaintiffs on 10/17/12.
Prince George's County Department of Parks and Recreation		
Quick v. Gathers	Defense of claim for alleged violations of the Americans with Disabilities Act.	Commission's Motion to Dismiss granted on 12/17/12.
Quick v. Legal Department	Defense of claim for injuries arising from alleged defective exercise bike.	Commission's Motion to Dismiss granted on 12/17/12.

Prince George's County Planning Department			
Prince George's County Planning Board			
Prince George's Park Police			

CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

Galloway v. Commission
Case No. 02C11164910

Lead Counsel: Harvin
Other Counsel: Mills

Abstract: The Workers' Compensation Commission awarded Claimant 22% permanent partial disability to his left leg (knee). Claimant is appealing this award.

Status: Trial Scheduled

Docket:

10/18/11	Petition filed
10/27/11	Response to Petition filed
06/20/12	Pretrial conference held
2/28/13-3/1/13	Trial scheduled

DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY

Butler v. Commission, et al.
Case No. 0502-0036998-2012

Lead Counsel: Reynolds
Other Counsel:

Abstract: Defense of Commission employee against suit for personal injury resulting from automobile accident.

Status: Notice of Intention to Defend filed

Docket:

12/18/12	Complaint filed
01/24/13	Notice of Intention to Defend Filed

Commission v. Burke
Case No. 0502-0008216-2009

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission filed confessed judgment against Defendant for failure to pay rental fee for park property. Currently attempting to locate defendant in order to enforce judgment.

Status: Confessed Judgment Filed

Docket:

03/10/09	Confessed Judgment filed
05/14/12	Notice of Lien filed

Commission v. Nyagbona
Case No. 0502-0033330-2011

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission filed suit to recover funds paid to repair a Commission vehicle that was struck by Defendant's uninsured automobile.

Status: On hold - Defendant is in active military service

Docket:

09/26/11	Complaint filed
11/01/11	Summons issued for Defendant

Commission v. Eludoyin
Case No. 0502-0006727-2012

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission filed suit to recover funds paid to employee under Workers' Compensation Act due to a vehicle accident caused by Defendant.

Status: Currently attempting to locate Defendant to serve summons and complaint

Docket:

03/28/12	Complaint filed
04/02/12	Summons issued for Defendant
09/04/12	Motion filed to Vacate Order of Dismissal
10/02/12	Order vacated – awaiting summons.

Japones v. Montgomery
Case No. 0502-0023010-2012

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of Commission employee against suit for personal injury resulting from automobile accident.

Status: Case Dismissed

Docket:

08/08/12	Complaint filed
9/20/12	Notice of Intention to Defend Filed
01/10/13	Case Settled
01/14/13	Case Dismissed

Quick v. Legal Department
Case No. 0502-0000105-2013

Lead Counsel: Harvin
Other Counsel: Mills

Abstract: Defense of claim for alleged violations of the American with Disabilities Act.

Status: Awaiting Trial

Docket:

01/02/13	Complaint filed
01/24/13	Answer filed

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Accokeek, Mattawoman, Piscataway Creeks, et al. v. Commission

Case No. CAL12-09816

Lead Counsel: Johnson
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Special Exception 4669 in Robin Dale Property.

Status: Trial Held
Docket:

03/29/12	Petition for Judicial Review filed
04/23/12	Commission's Response to Petition filed
04/23/12	Commission's Motion to Dismiss filed
04/24/12	Commission's Notice of Appeal filed
04/24/12	Commission's Certificate of Compliance filed
05/07/12	Petitioner's Opposition to Motion to Dismiss filed
05/24/12	Respondents Chaney Enterprises Limited and Southstar Enterprises Response to Petition for Judicial Review filed
05/24/12	Respondents Chaney Enterprises Limited and Southstar Enterprises Motion to Dismiss Petition for Judicial Review filed
07/20/12	Commission's Motion to Stay the Underlying Proceedings Pending this Court's Consideration of the Commission's Rule 7-204(b) Motion to Dismiss filed
08/06/12	Order granting Commission's Motion to Stay
09/12/12	Joint Motion for Continuance
09/12/12	Order granting Joint Motion for Continuance
10/26/12	Oral Argument re-scheduled
10/26/12	Petitioners' filed Motion to Withdraw and Notice of Voluntary Dismissal
10/26/12	Oral Argument and Joint Motion for Continuance held – Judge Cotton Granted Motions and Petition Notice of Voluntary Dismissal in case

Commission v. Batson

Case No. CAL11-34093

Lead Counsel: Chagrin
Other Counsel: Harvin

Abstract: Commission is appealing the Worker's Compensation Commission's decision.

Status: Dismissed
Docket:

11/23/11	Petition filed
12/22/11	Response to Petition filed
12/29/11	Cross Petition filed
02/17/12	Pretrial Hearing cancelled
09/21/12	Stipulation of Dismissal filed

Commission v. Brown
Case No. CAL03-24561

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.

Status: Post-judgment Collection Activity

Docket:

11/21/03	Complaint filed
07/02/04	Summary judgment granted
09/13/04	Hearing on damages – Award: \$11,680.00
05/14/12	Renewal of Judgment filed

Commission v. Hill
Case No. CAL11-18303

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Remanded to WCC

Docket:

08/03/11	Petition filed
08/12/11	Response to Petition filed
02/16/12	Pretrial Conference cancelled
10/04/12	Stipulation of Dismissal filed. Case remanded to WCC.
10/29/12	Remanded to WCC

Commission v. Kohlheim
Case No. CAL03-24560

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.

Status: Post-judgment Collection Activity

Docket:

11/21/03	Complaint filed
06/18/04	Motion for Summary Judgment filed
07/21/04	Summary Judgment granted
05/11/12	Case closed; judgment uncollectible

Commission v. Pinkney
Case No. CAL11-31133

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Trial Scheduled

Docket:

11/07/11	Petition filed
11/11/11	Response to Petition filed
11/29/11	Commission's Certificate Regarding Discovery filed
07/13/12	Scheduling Order filed
12/19/12	Pretrial Conference scheduled
02/27/13	Trial Scheduled

Corsetti v. Commission
Case No. CAL12-02521

Lead Counsel: Chagrin
Other Counsel:

Abstract: Petitioner is appealing the Workers' Compensation Commission's award of compensation to her right shoulder.

Status: Trial Scheduled

Docket:

01/26/12	Petition filed
02/13/12	Response to Petition filed
05/01/12	Pretrial Conference cancelled
04/18/13	Trial scheduled

Donaldson v. Commission
Case No. CAL12-14411

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant is appealing the Workers' Compensation Commission's Order denying compensability of his claim.

Status: Trial Scheduled

Docket:

02/13/12	Petition filed
03/02/12	Commission filed Motion to Dismiss or Change of Venue
03/15/12	Plaintiff filed Line consenting transfer
04/30/12	Notice of Case Transfer issued
10/30/12	Pretrial conference scheduled

06/13/13	Trial scheduled
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Jackson v. Commission
Case No. CAL11-18249

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claims arising from injury sustained by patron while playing tennis.

Status: In Discovery

Docket:

11/01/12	Complaint filed
12/18/12	Answer filed

Keller Brothers Inc. v. Commission
Case No. CAL11-18249

Lead Counsel: Calcote-Heatley
Other Counsel: Johnson

Abstract: Defense of claim for Judicial Review of construction change order request for Glenarden Community Center and Theresa Banks Pool.

Status: Trial Held

Docket:

07/29/11	Complaint filed
10/19/11	Joint Motion to Stay Case filed
10/31/11	Order Staying Case
01/06/12	Status Hearing rescheduled
02/23/12	Status Hearing scheduled
03/15/12	Administrative Record filed
05/15/12	Appellant brief due
06/15/12	Commission brief due
11/09/12	Appellant brief due
12/10/12	Commission brief due
01/03/13	Oral argument held
01/07/13	Order of Court reversing the Commission's purchase order decisions – appeal recommended.

Kelly Canavan & Randy Pheobus, et al. v. Commission
Case No. CAL12-14365

Lead Counsel: Johnson
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-07076 in Estate of Pleasant Valley.

Status: Trial Re-scheduled

Docket:

04/27/12	Petition for Judicial Review filed
05/15/12	Commission filed Response to Petition
05/15/12	Commission filed Certificate of Compliance
05/15/12	Commission filed Notice of Appeal
05/21/12	Saddle Creek, LLC filed Response to Petition
07/13/12	Commission filed Record and Transcript
08/02/12	Petitioners filed Motion for Completion of the Record
08/13/12	Petitioners filed Memorandum in Support of the Petition for Judicial Review
08/17/12	Order granting Petitioners' Motion for Completion of the Record
08/20/12	Commission filed Response to Petitioners' Motion for Completion of the Record
09/12/12	Saddle Creek, LLC filed Memorandum of Law
09/17/12	Commission filed Memorandum of Law
09/18/12	Joint Motion for Continuance of Oral Argument filed
09/21/12	Order granting for Continuance
11/7/2012	Received Petitioners' Reply Memorandum
11/09/12	Oral Argument held, Under Advisement
12/07/12	Commission filed Letter and Proposed Findings of Fact and Conclusions of Law per Judge Nicholas E. Rattal request
12/07/12	Applicant Saddle Creek, LLC filed its Proposed Findings of Fact and Conclusion of Law

Lake Mariton Limited Partnership, et al. v. Commission

Case No. CAL11-37406

Lead Counsel: Johnson
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11003 in Heathermore.

Status: Trial Scheduled
Docket:

12/20/11	Petition for Judicial Review Filed
01/10/12	Commission filed Response to Petition
01/10/12	Commission filed Notice of Appeal
01/10/12	Commission filed Certificate of Compliance
03/01/12	Commission filed Record and Transcript
03/19/12	Parties filed Joint Motion to Continue Oral Argument
03/26/12	Order from Circuit Court
03/28/12	Continuance Notice from Circuit Court
04/06/12	Heathermore Associates filed a Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
04/18/12	Petitioners filed Response to Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
04/18/12	Heathermore Associates filed Supplemental Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To

	Intervene As A Party Defendant
04/27/12	Commission filed Response to Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
05/10/12	Order from Circuit Court that Heathermore Associates may file a response in this case if it can establish that it is a successor in interest to the applicant
05/24/12	Heathermore Associates filed Response to Petition
07/10/12	Joint Motion to Continue Oral Argument Hearing and Stipulation to Extend Time for Filing Memoranda filed
08/09/12	Order granting Continuance of Oral Argument
08/14/12	Petitioners filed Memorandum of Law
09/06/12	Petitioner, Lake Mariton Limited Partnership, filed Line of Dismissal
10/19/12	Oral argument rescheduled

Lawson v. Commission
Case No. CAL11-13546

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim arising from injury to minor child playing game at playground camp held at Carrollton Elementary School.

Status: Case Settled

Docket:

05/26/11	Complaint filed
07/14/11	Commission Preliminary Motion to Dismiss filed
08/22/11	Opposition to Preliminary Motion to Dismiss filed
09/16/11	Order – Motion to Dismiss denied
11/03/11	Answer filed
03/29/12	Pretrial Conference held
06/20/12	Pretrial Conference held
09/14/12	Case settled

Pollard v. Commission
(WCC No. B629255)
Case No. CAL11-25999

Lead Counsel: Chagrin
Other Counsel:

Abstract: The Workers' Compensation Commission awarded Claimant 15% permanent partial disability to his right lower extremity (knee), and 5% was found to be due to a pre-existing condition. Claimant is appealing this award.

Status: Remanded to WCC

Docket:

10/11/11	Petition filed
10/25/11	Response filed
04/05/12	Pretrial Conference scheduled
12/13/12	Motion to Remand to WCC
01/08/13	Trial scheduled
01/08/13	Remanded to WCC

Pollard v. Commission
(WCC No. B629257)
Case No. CAL11-26000

Lead Counsel: Chagrin
Other Counsel:

Abstract: The Workers' Compensation Commission awarded Claimant 37% permanent partial disability reasonably attributable to the accidental injury, and 24% was found to be due to pre-existing conditions. Claimant is appealing this award.

Status: Remanded to WCC

Docket:

10/11/11	Petition filed
10/25/11	Response filed
04/05/12	Pretrial Conference scheduled
12/13/12	Motion to Remand to WCC
01/08/13	Trial scheduled
01/08/13	Remanded to WCC

Rogers v. Commission
Case No. CAL08-17670

Lead Counsel: McCarthy
Other Counsel:

Abstract: Plaintiff filed complaint for declaratory judgment and injunctive relief claiming easement rights concerning Commission property in Prince George's County.

Status: In Discovery

Docket:

07/10/08	Complaint filed
08/19/08	Complaint served
09/17/08	Commission Answer filed
11/05/08	Amended Complaint served
11/24/08	Commission Answer to Amended Complaint filed
03/04/09	Second Amended Complaint served
03/20/09	Commission Answer to Second Amended Complaint filed
08/28/09	Commission Motion for Partial Summary Judgment filed
08/31/09	Plaintiff's Motion for Partial Summary Judgment filed
09/28/09	Plaintiff's Motion for Leave to file Third Amended Complaint filed
09/29/09	Pretrial Conference

12/10/09	Pretrial Conference
02/22/10	Pretrial Conference
09/17/10	Motion Hearing held
01/19/11	Pretrial Conference held
05/3-5/11	Trial continued

Rollins v. Commission
Case No. CAL-11-17871

Lead Counsel: Borden
Other Counsel: Johnson

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-10026 in Middleton Lane

Status: Trial Scheduled

Docket:

08/01/11	Petition for Judicial Review filed
12/06/12	Petitioner's Filed Motion to Compel Filing of the Administrative Record and to Reschedule Oral Argument Hearing
12/10/12	Commission Filed Opposition to Motion to Compel Filing of the Administrative Record and to Reschedule Oral Argument Hearing
12/10/12	Commission Filed Response to Petition
12/10/12	Commission Filed Notice of Appeal
12/10/12	Commission filed Certificate of Compliance
12/10/12	Commission filed Record & Transcript
12/13/12	Oral Argument Scheduled
01/10/13	Petitioners' filed a Joint Stipulation to Extend Time to File Memoranda of Law
01/22/13	Petitioners' filed their Memorandum of Law in Circuit Court

Schwartz v. Dobbins
Case No. CAL12-25208

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim arising from motor vehicle accident.

Status: In Discovery

Docket:

08/13/12	Complaint filed
09/24/12	Answer filed

Tipton, et al. v. Commission
Case No. CAL12-15935

Lead Counsel: Johnson
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11028 in Salubria Center

Status: Trial Held
Docket:

05/16/12	Petition for Judicial Review Filed
06/11/12	Commission Response to Petition filed
06/11/12	Commission Certificate of Compliance filed
06/11/12	Commission Notice of Appeal filed
06/21/12	Respondent Pinnacle Harbor LLC filed Notice of Intent To Participate
08/06/12	Commission filed Record and Transcript
09/04/12	Petitioners' filed Motion to Extend Time for Filing of Memorandum and for Continuance of Oral Argument Hearing Date
09/05/12	Order granting Motion to Extend Time; Oral Argument date to remain
09/12/12	Memorandum of Law filed
10/18/12	Commission's filed Memorandum of Law
10/19/12	Pinnacle Harbor LLC's filed its Response to Memorandum of Law
10/31/12	Petitioners' filed Reply Memorandum of Law
11/02/12	Oral Argument held, Under Advisement
11/9/2012	Commission filed its Proposed Order per Judge request on 11/02/12
12/10/12	Opinion and Order for Circuit Court (entered 11/30/12) affirming Planning Board decision

White v. Commission
Case No. CAL12-07503

Lead Counsel: Chagrin
Other Counsel:

Abstract: Petitioner is appealing the Workers' Compensation Commission's order.

Status: Trial Scheduled

Docket:

03/07/12	Petition filed
03/26/12	Response to Petition filed
09/18/12	Pretrial Conference scheduled
04/23/13	Trial scheduled

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Beatty v. Montgomery County, et al.

Case No. 360768V

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant is suing for torts arising from slip and fall.

Status: Pretrial Conference Scheduled

Docket:

03/29/12	Complaint filed
04/25/12	Commission's Answer to Complaint filed
04/27/12	Montgomery County Motion to Dismiss and/or for Summary Judgment filed
06/04/12	Conference scheduled re: Motion to Dismiss
06/15/12	Scheduling hearing
08/16/12	Motion for Summary Judgment scheduled
09/27/12	Motion for Summary Judgment continued
12/19/12	Oral argument for Summary Judgment
12/19/12	Summary Judgment in favor of Commission Granted
12/27/12	Pretrial Conference scheduled
01/17/13	Plaintiff filed a Notice of Appeal

Commission v. Hoffmaster

Case No. 360767V

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Trial Scheduled

Docket:

03/14/12	Petition filed
03/30/12	Response to Petition filed
08/13/12	Pretrial Statement due
08/23/12	Pretrial Hearing scheduled
11/27/12	Order issued postponing trial
2/4/13	Trial Scheduled

Commission v. Martinez
Case No. 369652V

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Pretrial Hearing Scheduled

Docket:

10/15/12	Petition filed
10/23/12	Response to Petition filed
03/21/13	Pretrial Hearing scheduled

Commission v. Rivera
Case No. 369970V

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Pretrial Hearing Scheduled

Docket:

10/23/12	Petition filed
04/04/13	Pretrial Hearing scheduled

Commission v. Johnson
Case No. 366677-V

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.

Status: Judgment obtained in favor of the Commission.

Docket:

08/07/12	Complaint filed
09/16/12	Defendant served with summons and complaint
10/19/12	Judgment granted in favor of the Commission.

Commission v. Mereos

Case No. 369081-V

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.

Status: Awaiting service upon Defendant

Docket:

9/28/12	Petition to Enforce Planning Board Order filed
10/02/12	Summons issued

Kambiz Kazemi v. Commission

Case No. 351430-V

Lead Counsel: Lieb
Other Counsel: Sorrento

Abstract: Request for Judicial Review filed by Kambiz Kazemi in the case of Alvermar Woods, Lot 17, Preliminary Plan 11999034A.

Status: Stayed until December 31, 2012

Docket:

08/25/11	Petition for Judicial Review filed
09/07/11	Petitioner's Motion for Stay of Proceedings filed
09/23/11	Order Staying Proceedings
03/05/12	Petitioner's Motion for Extension of Stay of Proceedings filed
04/04/12	Order – Proceedings shall be stayed until July 1, 2012
07/27/12	Petitioner's Motion to Extend Stay of Proceedings until December 31, 2012 filed
10/19/12	Order Staying Proceedings

Makflnsky, et al. v. Montgomery County Planning Board

Case No. 360249-V

Lead Counsel: Rubin
Other Counsel: Sorrento

Abstract: Petition for Judicial Review filed of the decision of the Montgomery County Planning Board in the case of Rolling Stone Preliminary Plan 120110430.

Status: Commission filed Response to Petition, Notice to Parties of Record and Certificate of Compliance.

Docket:

01/04/13	Petition for Judicial Review filed
01/23/13	Commission's Response, Certificate of Compliance and Notice to Parties of Record filed

McClure v. Montgomery County Planning Board

Case No. 362946-V

Lead Counsel: Lieb
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21611 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-38.

Status: Trial Scheduled
Docket:

05/09/12	Petition filed
07/09/12	Motion to Stay Order of the Montgomery County Planning Board and Request for hearing
07/24/12	Answer of the Montgomery County Planning Board to Motion for Stay Pending Appeal
09/19/12	Motions hearing held, ruling from the Bench
09/20/12	Order – Hon. Joseph M. Quirk – staying enforcement of Planning Board's Order
09/28/12	Petitioner's memorandum filed
11/11/12	Commission's answering memorandum filed
11/16/12	Petitioner's Reply Memorandum filed
12/18/12	Hearing scheduled
01/29/13	Oral Argument Scheduled

Sahady v. Montgomery County Planning Board

Case No. 364354-V

Lead Counsel: Lieb
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21533 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-50.

Status: Trial Held
Docket:

06/15/12	Petition filed
06/09/12	Motion to Stay May 17, 2012 Order of the Montgomery County Planning Board and Request for hearing
07/24/12	Answer of the Montgomery County Planning Board to Motion for Stay Pending Appeal filed
08/16/12	Line and Administrative Record filed
09/19/12	Motions Hearing held, ruling from the Bench
09/20/12	Order – Hon. Joseph M. Quirk – staying enforcement of Planning Board's Order
	Petitioner's memorandum filed
11/22/12	Commission's answering memorandum due
12/05/12	Petitioner's Reply Memorandum filed
12/18/12	Oral Argument Held, Matters Taken Under Advisement

Shady Grove Technical Center Associates v. Montgomery County Planning Board
Case No. 359937-V

Lead Counsel: Rubin
Other Counsel: Lieb

Abstract: Petition for Judicial Review of Resolution by Montgomery County Planning Board in Case MCPB NO. 11-108.

Status: Trial Scheduled

Docket:

03/02/12	Petition filed
03/08/12	Response, Certificate of Compliance/Notice
03/15/12	Line of Appearance
03/19/12	Notice of Withdrawal of Appearance
03/21/12	Response – Notice of Intention to Participate in Petition for Judicial Review filed by Woodfield/Meridian Shady Grove, LLC
04/30/12	Line and Administrative Record filed
05/29/12	Order granting Motion of Petitioners for Extension of Time to File Memorandum of Law
07/17/12	Order granting extension of time to file Memorandum of Law
07/31/12	Consent Motion to Stay Proceedings filed
08/01/12	Order granting 30-day stay of proceedings
08/31/12	Request to Extend Stay on Consent Motion of all Parties filed by joint letter granted by Court
11/30/12	Scheduling Order
04/03/13	Oral Argument Scheduled

Smith v. Montgomery County Planning Board
Case No. 367472-V

Lead Counsel: Lieb
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21627 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 10-180.

Status: Trial Scheduled

Docket:

08/27/12	Petition filed
09/05/12	Motion to Stay Order of the Montgomery County Planning Board and Request for hearing
09/04/12	Scheduling Order – Hon. Ronald B. Rubin
09/06/12	Response to Petition for Judicial Review filed by Commission
09/13/12	Notice of pending events
11/27/12	Plaintiff's Memorandum filed
12/21/12	Joint Stipulation as to Briefing Schedule filed
02/08/13	Hearing scheduled

Town of Washington Grove v. M-NCPPC

Case No. 370437-v

Lead Counsel: Sorrento
Other Counsel: Lieb

Abstract: Petition of Judicial Review of Forest Conservation Plan

Status: Administrative Record filed

Docket:

11/08/12	Petition for Judicial review filed by Town of Washington Grove.
12/06/12	Response to Petition filed by Applicant, Towne Crest Apts.
12/07/12	Commission's Response filed
01/18/13	Administrative Record filed

MARYLAND COURT OF SPECIAL APPEALS

Albert Arking, et al. v. Montgomery County Planning Board

September Term 2011, No. 02346

Lead Counsel: Rubin
Other Counsel:

Abstract: Petitioner filed an Appeal in the Circuit Court for Montgomery County of the Order dated December 12, 2011, denying the Petition for Judicial Review and affirming the Planning Board's decision.

Status: Decision Pending

Docket:

01/10/12	Notice of Appeal and Civil Information Report filed
01/23/12	Civil Information Report filed by Commission to clarify information filed by Petitioner
05/17/12	Scheduling Order
06/15/12	Appellants Request for Extension of Time for Filing of Appellant's Brief
06/20/12	Commission's Opposition to Appellant's Request for Extension to Time to File Brief
07/03/12	Scheduling Order from Hon. Peter B. Krauser
07/23/12	Appellant's Brief due
09/14/12	Commission's Brief filed
10/4/12	Appellant's Reply Brief
10/25/12	Notice to Parties from Court – Case to be decided without oral argument

Bethesda Place LLP v. MCPB

Case No. (Unavailable)

Lead Counsel: Sorrento
Other Counsel:

Abstract: Notice of Appeal filed regarding the Judge's ruling in favor of the Commission on October 24, 2012.

Status: Appeal filed

Docket:

9/28/12	Petition to Enforce Planning Board Order filed
10/02/12	Summons issued

Hall, et al. v. Commission

September Term 2009, No. 01247

Lead Counsel: Johnson
Other Counsel:

Abstract: Defense against Administrative Appeal of Planning Board's decision to approve Bundy's Subdivision of Birdlawn Preliminary Plan 4-06158.

Status:
Docket:

Decision Pending

01/10/08	Petition for Judicial Review filed
02/04/08	Commission filed Response to Petition; Certificate of Compliance and Notice of Appeal
03/12/08	Commission filed Record and Transcript
06/09/08	Petitioner filed Memorandum
07/14/08	Commission filed Memorandum
09/26/08	Oral Argument
07/15/09	Circuit Court Opinion affirming Planning Board decision issued
07/24/09	Petitioners Aimee Gray and the Estate of Affie Gray filed Notice of Appeal
11/04/09	Commission received Appellants' Brief
11/23/09	Commission filed a Stipulation For Extension of Time for Filing Memoranda (Commission's Brief)
12/18/09	Commission's Brief filed

Jones v. McNeal

September Term 2011, No. 01928

Lead Counsel:
Other Counsel:

Calcote-Heatley

Abstract:

Defense of suit under Maryland Public Information Act against Alvin McNeal. Plaintiff appeals decision of Circuit Court.

Status:

Trial Scheduled

Docket:

10/31/11	Plaintiff Appeals to Court of Special Appeals
12/27/11	Mr. Jones' Brief due
01/03/12	Appellant's brief and request for waiver of 15 copies of brief filed
01/26/12	A. McNeal Brief due
03/12/12	Appellant's Motion to Waive Fees and Affidavit filed
04/04/12	Order – Appellant's obligation to deposit court fees waived
04/20/12	Five additional copies Appellant's 01/03/12 Brief filed
06/1-12/12	Oral Argument scheduled
09/12/12	A. McNeal Motion to Dismiss Appeal filed
10/15/12	Order – appeal may be dismissed on Court's motion unless Appellant files corrected brief
11/09/12	A. McNeal line withdrawing appearance of Jared M. McCarthy and entering appearance of Donna Y. Calcote-Heatley
11/10/12	Motion to Extend Time for filing Appellant's Briefs filed
12/31/12	Appellant's Corrected Brief due
01/04/13	Order – Appellant's Motion to Extend Time for filing brief granted
01/10/13	Order – Appellee's Motion to Dismiss denied
02/12/13	Appellant's brief and record due
05/2013	Oral Argument Scheduled

Prince George's County, Maryland v. Mazzei et al.

September Term 2011, No. 02656

Lead Counsel: Chagrin
Other Counsel:

Abstract: Order from Workers' Compensation Commission which found that he did not sustain an occupational disease arising out of and in the course of his employment from either Prince George's County or the Commission. Prince George's County is appealing decision from court in favor of Claimant, Mazzei.

Status: Briefing Scheduled

Docket:

01/23/12	Order -- Commission dismissed from appeal without prejudice
02/23/12	Notice of Appeal filed by Prince George's County, Maryland
08/2012	Motion for Extension to file Brief granted

Pringle v. Montgomery County Planning Board

September Term 2011, No. 02334

Lead Counsel: Sorrento
Other Counsel: Rubin

Abstract: Gregory Pringle filed a petition of judicial review of the decision of the Montgomery County Planning Board in the case of Seneca Meadows Preliminary Plan 11998004A and Site Plan 820100140.

Status: Trial Scheduled

Docket:

01/03/12	Petitioner filed Notice of Appeal and Civil Information Report
02/21/12	Order -- Appeal to proceed without a Prehearing Conference
07/02/12	Appellant Brief due
08/03/12	Commission's Brief filed
08/06/12	Brief of Appellee Minkoff Development Corporation filed
01/04/13	Oral Argument scheduled

Rounds v. Commission

Case No. TBA

Lead Counsel: Gardner and Mills
Other Counsel:

Abstract: Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.

Status: Appeal Filed

Docket:

07/06/12	Notice of Appeal filed
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01/07/13	Appellant's Brief filed
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Slover et al. v. Montgomery County Planning Board

September Term 2011, No. 01460

Lead Counsel: Lieb
Other Counsel: Rubin

Abstract: Petition for Judicial review of the Planning Board decision to approve two-lot subdivision located at 9490 River Road in Potomac filed by project opponents. Circuit Court issued Order affirming Preliminary Plan. Plaintiff appeals Order.

Status: Trial Held

Docket:

09/09/11	Plaintiff's Notice of Appeal filed
11/08/11	Order to proceed without pre-hearing conference
01/25/12	Appellants' Memorandum of Law in Support of Notice of Judicial Review and Record Extract
03/01/12	Scheduling Order from the Court
03/08/12	Brief of Appellee, Montgomery County Planning Board
03/08/12	Brief of Appellees, Louis Donatelli and Ann Donatelli
03/28/12	Reply Brief of Appellants
10/10/12	Oral argument held – matter taken under advisement

Wilson v. Commission

September Term 2011, No. 02362

Lead Counsel: Harvin
Other Counsel:

Abstract: Appeal of dismissal of claim alleging discriminatory termination.

Status: Trial Scheduled

Docket:

01/12/12	Notice of Appeal filed
07/24/12	Mr. Wilson's Brief filed
08/22/12	Commission's Brief filed
02/05/13	Oral Argument Scheduled

U.S. DISTRICT COURT OF MARYLAND

Freeman v. Commission
Case No. CAD 11-CV-2894

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim alleging discrimination in employment by former employee.

Status: Trial Scheduled
Docket:

10/11/11	Complaint filed
11/14/11	Motion for Summary Judgment filed
05/25/12	Second Motion for Summary Judgment filed
07/26/12	Reply to Plaintiff's Opposition to Motion for Summary Judgment filed
11/08/12	Hearing held on Motion for Summary Judgment. All counts dismissed as to Defendant Gathers and six of seven counts dismissed as to the Commission.
10/1/13	Trial Scheduled

Streeter v. Commission
Case No. RWT 12-CV-0976

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim alleging discrimination and retaliatory termination.

Status: Preliminary Motion Pending
Docket:

01/17/12	Complaint filed in Circuit Court for Prince George's County
04/03/12	Case removed to U.S. District Court
04/10/12	Commission's Preliminary Motion to Dismiss filed

Neal v. Commission
Case No. RWT 12-CV-1186

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim alleging discrimination.

Status: In Discovery
Docket:

04/23/12	Complaint filed
04/25/12	Waiver of Summons filed
06/25/12	Motion for Summary Judgment filed
09/12/12	Reply to Defendant's Opposition filed
1/7/13	Motion denied