

Investigation into Allegations of Wrongdoing Regarding Building Inspections of 2 Houses

Date: June 22, 2023

To: Audit Committee

From: Auditor General

Wards: All

SUMMARY

This report summarizes an investigation into allegations of wrongdoing related to the construction of two large houses by one builder in Toronto. The complaint came to the Auditor General through the Chief Building Official (CBO) on April 20, 2021.

The complainant alleged that the builder was not constructing the houses in accordance with the permits approved by Toronto Building Division (TB) and that the builder was making changes to the houses that were not in compliance with the *Ontario Building Code* (OBC or Building Code or the Code). The complainant said it was possible that TB's inspectors were not catching these changes and was concerned that the houses, once complete, would not be safe.

In addition, the complainant also alleged that the builder was fraudulently using the project architect's credentials to make changes. The last allegation was that the builder had connections at the City of Toronto who were in some way helping the builder to bypass the regular TB plan review and/or inspection process.

The Auditor General's Office took these allegations seriously and conducted a review of the building files for the two houses, conducted more than a dozen interviews, contracted a structural forensics engineer, reviewed hundreds of documents, and conducted data analysis on building inspection information.

Regarding the allegation of the builder not constructing the houses in accordance with the approved permits, we found that the builder made changes on-site during construction at the two houses without having the changes reviewed and subsequently approved by TB staff.

Builders can make changes to the buildings they are constructing, but the *Building Code Act* (BCA) states that "material" changes cannot be made without approval from the CBO. A material change is not defined in the BCA, but it is generally a larger or more significant change that would require approval from TB before construction occurs.

Throughout this investigation, senior inspectors, the CBO and the structural forensics consulting engineer we contracted confirmed that most of the changes made to the houses in this investigation would be considered “material”.

For this file, we determined the following for each of the allegations:

1. Allegation 1 was substantiated
2. We were unable to determine a conclusion for Allegation 2 due to challenges in obtaining information
3. Allegation 3 was unsubstantiated
4. Allegation 4 was unsubstantiated

More details about each allegation and our conclusions are included in the report.

Further, while conducting this investigation, the Auditor General identified several other issues. These issues are similar to some of the findings from our recent performance audit report entitled “[Building Better Outcomes: Audit of Toronto Building’s Inspection Function](#)” (the audit was being conducted at the same time as this investigation, was dated January 27, 2023 and was presented at the February 13, 2023 Audit Committee meeting). In parts of this report, we refer to our audit report for details and relevant recommendations (the audit report recommendations are also outlined in Appendix 5). The potentially wider-ranging issues we found in this investigation included:

1. A risk-based approach to inspections is not used
2. The importance of using powers to enforce compliance
3. Material and note-worthy changes were not identified through the inspection process
4. The inspection order is not always logical
5. The City-approved plans are not always used for inspecting

Further details about each of these other issues are included in the report, along with recommendations for the Division.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council request the Chief Building Official and Executive Director, Toronto Building Division, to consider developing and implementing a risk-based approach to its processes, including inspections, and assignment of more experienced staff to higher-risk projects.
2. City Council request the Chief Building Official and Executive Director, Toronto Building Division, to enhance and strengthen building code and enforcement training for both plan review and inspection staff, including key aspects that must be reviewed when a firewall is included as part of the building design and construction.

3. City Council request the Chief Building Official and Executive Director, Toronto Building Division, to implement controls, including training and supervisory oversight, to ensure that:

- a. inspectors pass inspection stages in order; and
- b. when exceptions are required to passing inspections in order and are approved by a supervisor, clearly document the reasons for moving on to subsequent inspection stages.

4. City Council request the Chief Building Official and Executive Director, Toronto Building Division, to provide training and supervisory oversight for inspectors on when to set a time limit on requested reports from professionals, as well as reasonable expected time limits.

5. City Council request the Chief Technology Officer, in consultation with the Chief Building Official and Executive Director, Toronto Building Division, to ensure that any necessary enhancements to system functionality and data fields are implemented to support better tracking of deficiencies, and also allow for builders/permit holders to access the status of their inspections, including any deficiencies that must be fixed before being passed to the next stage.

6. City Council request the Chief Building Official and Executive Director, Toronto Building Division, to implement policies, procedures and training to ensure:

- a. inspectors retain all relevant plans and drawings for a project on file;
- b. inspectors clearly document which plans they used for their inspection work; and
- c. inspectors use the City-approved plans for their inspection work, and if also using other plans such as engineered wood drawings from a manufacturer, that they match them to the City-approved plans.

FINANCIAL IMPACT

The financial impact of the recommendations in this report is not determinable at this time.

DECISION HISTORY

The Auditor General's Office as part of its Work Plan is conducting a multi-phased operational review of the Toronto Building Division. The first phase of the operational review, focusing on TB's operational policies and processes for inspecting construction and issuing orders to enforce the BCA and OBC, was issued in February 2023.

<https://www.toronto.ca/legdocs/mmis/2023/au/bgrd/backgroundfile-234093.pdf>

COMMENTS

While this investigation focuses on only two houses in a large city, the issues identified have implications that stretch further. It is the Auditor General's view that this investigation report reflects a serious example of the 'so what?', or the importance of why Toronto Building Division needs to address recommendations from this report as well as recommendations from our recent performance audit report. It shows the risk that some builders might be making unapproved changes to their buildings, which could have serious safety implications, if TB is not notified to review and inspect the changes and/or the changes are not caught during the inspection process.

The Auditor General's six recommendations in this report will help to address the gaps identified.

Because of the importance of the issues raised in this investigation, we recommend the CBO immediately start acting on these recommendations. To do this, the CBO will need support from other City Divisions, including Technology Services and Legal Services Division.

Once implemented, the Division will be in a stronger position to carry out its mandate and support its staff as they continue to review plans and do inspection work to verify that houses and buildings are being constructed in compliance with the City-approved plans, the OBC and the BCA.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Investigation into Allegations of Wrongdoing Regarding Building Inspections of 2 Houses