Audit Report

Office of the Clerk of Circuit Court
Carroll County, Maryland

September 2011

OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

Bruce A. Myers, CPA
Legislative Auditor

September 7, 2011

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Office of the Clerk of Circuit Court for Carroll County, Maryland for the period beginning January 22, 2008 and ending March 1, 2011. The Office performs various functions for the public, including maintaining various legal records, recording certain real estate documents, collecting related fees and taxes, and issuing certain licenses.

Our audit disclosed that adequate controls were not established over land transfer transactions and the issuance of business licenses.

The Judiciary's response to this audit, on behalf of the Office, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by the Office during the course of this audit.

Respectfully submitted,

Bruce A. Myers

Bruce A. Myers, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Office performs a variety of functions for the public such as filing, docketing, and maintaining various legal records; recording documents involving title to real estate; collecting the related fees, commissions, and taxes; and issuing certain licenses. In performing these functions, the Office collects funds on behalf of the State, Carroll County and its incorporated cities and towns, and others, and subsequently distributes the funds collected to the applicable entities.

Financial Information

According to the State's accounting records, the Office's fiscal year 2011 revenues totaled $4,339,649. These revenues were distributed in the following manner:

- $300,373 was distributed to Carroll County and its incorporated cities and towns,
- $112,053 was distributed to others, and
- $3,927,223 (the remaining amount) represented revenues available to the State for purposes specified in various provisions of State law.

The Office's fiscal year 2011 operating expenses, which were paid primarily from a general fund appropriation, totaled $2,046,801.

The Office also maintained custody of certain trust funds and special purpose funds that, according to its records, had balances totaling $1,018,065 as of February 28, 2011.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the two findings contained in our preceding audit report dated May 7, 2008. We determined that the Office satisfactorily addressed these findings.

Findings and Recommendations

Land Transfers

Finding 1
Land transfer transactions were not subject to independent review.

Analysis
The Office lacked adequate procedures to verify that land transfer transactions were properly processed, and to ensure the proper taxes (that is, transfer taxes, recordation taxes, and nonresident withholding taxes) and fees were collected. Specifically, we noted that land record clerks had sole responsibility for processing land transactions, for determining amounts due, and for processing the related collections on the automated court system. Although we noted that a supervisory review procedure had been established in August 2009, as of May 2011, it had not been performed since June 2010. Supervisory reviews are critical because the land record clerks are solely responsible for determining the taxes and fees due and for entering the amounts into the system—the system does not automatically compute the tax liabilities. In addition, for those cases that are exempt from taxes (such as, transfers between family members) or are subject to a reduced tax (such as first time homeowners), the land record clerks are responsible for reviewing the documentation to ensure that the individuals qualified for the related tax exemption or reduction.

The Office's land transfer revenues totaled approximately $3.5 million for fiscal year 2010.

Recommendation 1
We recommend that the Office perform an independent documented review, at least on a test basis, of land transfer transactions to ensure the transactions were processed correctly and that the proper amounts of taxes and fees were collected.

Business Licenses

Finding 2
Adequate controls were not established over the issuance of business licenses.

Analysis
Improved controls were needed over the issuance of business licenses. Specifically, our review disclosed that license applications were not subject to independent verification. This is significant because the applications were generally processed unilaterally by individual clerks. These verifications should be performed to ensure the propriety of the license issuances and that the proper licensing fees were charged. Furthermore, these clerks had the ability to modify critical information on the Judiciary's licensing system, as well as to override system warnings without any independent review and approval. For example, a clerk could issue a license to an applicant with outstanding State taxes by overriding the system warning.

During fiscal year 2010, the Office issued 2,888 business licenses, and collected approximately $300,000 in business licensing fees, the vast majority of which was distributed to Carroll County and its incorporated cities and towns.

Recommendation 2
We recommend that the Office independently review and approve business license transactions, at least on a test basis.

Audit Scope, Objectives, and Methodology

We have audited the Office of the Clerk of Circuit Court for Carroll County, Maryland for the period beginning January 22, 2008 and ending March 1, 2011. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Office's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included cash receipts (including taxes and fees collected for real estate transactions), bank accounts, accounts receivable, and recordation of the dispositions of court cases. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Office's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include certain support services provided to the Office by the Administrative Office of the Courts. These support services (such as payroll, processing of invoices, and maintenance of budgetary accounting records) are included within the scope of our audits of the Judiciary.

The Office's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Office's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report did not disclose any significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Office that did not warrant inclusion in this report.

The Judiciary's response, on behalf of the Office, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Judiciary regarding the results of our review of its response.

APPENDIX

ROBERT M. BELL
CHIEF JUDGE
COURT OF APPEALS OF MARYLAND
ROBERT C. MURPHY COURTS OF APPEAL BUILDING
361 ROWE BOULEVARD
ANNAPOLIS, MARYLAND 21401-1699

August 31, 2011

Mr. Bruce A. Myers, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Myers:

We have received the Legislative Auditor's Draft Audit Report pertaining to the audit of the Office of the Clerk of the Circuit Court for Carroll County, Maryland, for the period beginning January 22, 2008, and ending March 1, 2011. The following are our responses to the audit findings and recommendations in the audit report:

Finding 1
Land Transfers

We concur with the finding and recommendation. The Office will immediately resume an independent, documented review, on a test basis, of land transfer transactions to ensure that the transactions were processed correctly and the proper amounts of taxes and fees were collected. The results of the reviews will be maintained for future reference.

Finding 2
Business Licenses

We concur with the finding and recommendation. The Office will immediately begin an independent review and approval of business license transactions on a test basis. The results of the reviews will be documented and maintained for future reference.

We believe we have responded in full to both findings and recommendations.

Very truly yours,

Robert M. Bell

Donald B. Sealing II
Clerk of the Circuit Court for
Carroll County

cc: Hon. Michael M. Galloway, Administrative Judge
Frank Broccolina, State Court Administrator
Faye Matthews, Deputy State Court Administrator
Ssali S. Luwemba, Director of Internal Audit

AUDIT TEAM

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