

Audit Report

**Office of the Clerk of Circuit Court
Charles County, Maryland**

December 2009



**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

December 1, 2009

Delegate Steven J. DeBoy Sr., Co-Chair, Joint Audit Committee
Senator Verna L. Jones, 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 Charles County, Maryland for the period beginning July 1, 2006 and ending June 30, 2009. 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 the Office did not have formal procedures to ensure that the disposition of court cases was properly entered into the automated court system. In addition, adequate controls were not established for land transfer transactions and over certain collections.

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, 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, Charles County and its incorporated cities and towns, and subsequently distributes the funds collected to the applicable entities.

Financial Information

According to the State's accounting records, the Office's fiscal year 2009 revenues totaled \$5,464,528. These revenues were distributed in the following manner:

- \$401,448 was distributed to Charles County and its incorporated cities and towns;
- \$40,507 was distributed to others; and
- \$5,022,573 (the remaining amount) represented revenues available to the State for purposes specified in various provisions of State law.

The Office's fiscal year 2009 operating expenses, which were paid primarily from a general fund appropriation, totaled \$2,468,864.

The Office also maintained custody of certain trust funds that, according to its records, had balances totaling \$190,471 as of June 30, 2009.

Status of Finding From Preceding Audit Report

Our audit included a review to determine the status of the finding contained in our preceding audit report dated November 6, 2006. We determined that the Office satisfactorily addressed the finding.

Findings and Recommendations

Court Cases

Finding 1

The Office did not have formal procedures to ensure that the disposition of court cases was properly entered into the automated court system.

Analysis

The Office did not have formal procedures to ensure that the disposition of court cases was properly entered into the Uniform Court System (UCS), which is the case management system used in most circuit courts, including Charles County. At the conclusion of a criminal case, a manual form is completed in the courtroom reflecting the disposition of the case (such as not guilty, guilty, and sentencing information) and is signed by the judge. This form is then sent to the Office's criminal unit where a clerk enters the information into the UCS and, when applicable, prints a commitment letter from the system, which is sent to the appropriate correctional facility. However, for commitment cases, our review disclosed that the UCS entries and the related commitment letters were not compared to the manual forms by independent personnel to ensure that the information was entered properly. For other cases, we were advised that the UCS entries were compared to the manual forms by independent personnel; however, these reviews were not documented. In this regard, we were advised by management at the Department of Public Safety and Correctional Services that, for State incarcerations, the commitment letter is used to record the sentencing information in the Offender-Based State Correctional Information System (OBSCIS) and serves as the basis for the eventual prisoner release date.

Office management advised us that a copy of the manual form completed in the courtroom accompanies the defendant to the correctional facility, to process the inmate's initial entry into the facility, and that the Office relies on the facility to compare the manual form to the commitment letter. However, we believe that the accuracy of the information is the Office's responsibility, and an independent review to ensure that the information is entered accurately is warranted. According to the Office's records, there were 892 criminal cases in Charles County for fiscal year 2009.

Recommendation 1

We recommend that an independent documented review be performed of the court case dispositions entered into the UCS and the related commitment letters, at least on a test basis.

Land Transfers

Finding 2

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 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 system. There was no process for any supervisory reviews to ensure that the transactions were properly processed on the system and to ensure the proper taxes and fees were collected. Supervisory reviews are critical because the land 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 liabilities. In addition, certain cases are exempt from transfer taxes (such as transfers between family members) or are subject to a reduced tax (such as first time homebuyers). In these cases, the land clerks are responsible for reviewing the documentation to ensure that the individuals qualified for the related tax exemption or reduction.

The Office's revenues totaled approximately \$5.4 million for fiscal year 2009, the vast majority of which related to land transactions.

Recommendation 2

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

Collections

Finding 3

The Office lacked adequate controls over certain collections.

Analysis

The Office lacked adequate controls over certain collections. Specifically, the employee responsible for verifying that trust fund collections were deposited also had access to the related collections. As a result, these collections could be

misappropriated and it would not be readily detected. Trust fund collections totaled approximately \$11.3 million and \$1.4 million during fiscal years 2008 and 2009, respectively.

Recommendation 3

We recommend that the Office ensure that the employee responsible for verifying that collections were deposited not have access to the related collections. We advised the Office on accomplishing the necessary separation of duties using existing personnel.

Audit Scope, Objectives, and Methodology

We have audited the Office of the Clerk of Circuit Court for Charles County, Maryland for the period beginning July 1, 2006 and ending June 30, 2009. 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. The areas addressed by the audit included cash receipts, including taxes and fees collected for real estate transactions; bank accounts; accounts receivable; and recording the disposition of court cases. We also determined the status of the finding 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. 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.

Our audit disclosed 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 audit 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

November 23, 2009

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 Charles County, Maryland for the period beginning July 1, 2006 and ending June 30, 2009. The following is our response to the audit findings and recommendations in the report:

Finding 1 Criminal Cases

We concur with the recommendation. The Clerk's Office has always confirmed, on an informal basis, that criminal case dispositions were properly entered in the Uniform Court System (UCS). Office procedures have been strengthened to formally review criminal case dispositions. An employee independent of the criminal case disposition function performs verification reviews, on a test basis. The independent employee compares the information on the manual court forms, the related commitment letters, and the information entered in the UCS to ensure that the information was entered properly. The results of the reviewed criminal case dispositions are documented on a log that is signed, dated, and maintained for future reference.

Finding 2 Land Transfers

We concur with the recommendation. The Clerk's Office has always reviewed land transfer transactions on an informal basis. We have established a formal supervisory review to ensure that all land transfer-related activities and transactions are processed accurately in accordance with established policies and procedures. Land Record Department supervisors, on a test basis, select certain land transfer transactions and review them. The results of the reviewed transactions are then recorded on a log that is signed, dated, and maintained by the supervisors for future reference.

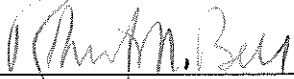
Mr. Bruce A. Myers
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Finding 3
Collections


We concur with the recommendation. Policies and procedures for separation of incompatible duties have been strengthened to ensure that the employee responsible for verifying that trust fund collections were deposited does not have access to related collections.

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

Very truly yours,



Robert M. Bell



Sharon Hancock
Clerk of the Circuit Court for
Charles County

cc: Hon. Amy Janel Bragunier, Administrative Judge
Frank Broccolina, State Court Administrator
Faye Gaskin, Deputy State Court Administrator
Ssali Luwemba, Director of Internal Audit

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