

18. Inadequate Audit Performed

Assertion: In 2023 we had Chris Moran, CPA request an audit the building fund. The city stated they wanted to perform the audit with their internal audit office which is independent of the City Manager and reports to Council. We agreed, however the outcome clearly showed that it was not a true forensic accounting audit (report is included in backup).

Mark Mason (former Financial Services Director, Current Assistant City Manager) provided CCCIA's accountant, Chris Moran, the contact information to the City Auditor in order to discuss the possibility of an audit of the Building Fund. The City Auditor initiated a conversation with Moran at the end of 2023, and discussed the City Auditor's Office performing an independent audit for the City. The City Auditor's office had constant communication before, and throughout, the audit process with CCCIA while conducting the Building Fund Audit. See FILE: "Email Correspondence with Moran and CCCIA."

The City Auditor met with CCCIA members prior to the start of the audit in order to discuss the duties to be performed, the type of audit to be performed, and reviewed the Building Fund Entrance Conference agenda that is discussed at the audit kick off meeting. See FILE: "Building Fund Audit Entrance Conference Agenda." Annette Carrasquillo mentioned "this seems like a performance audit." The City Auditor reiterated that is primarily what her office does; however, she and her Deputy City Auditor have over 20 years combined experience performing compliance, financial and performance audits, and the City Auditor reviewed criteria for conducting a forensic audit and why there was no justification to conduct a forensic. See FILE: Audit types and definitions.

Members of CCCIA were invited to both the entrance (kick off) and exit (official end) conferences. See FILE "Entrance and Exit Invites." The City Auditor also provided a copy of the Engagement letter, dated May 16, 2024, which specifically stated the objectives and scope of the audit. See FILE: "Building Fund Audit Engagement Letter."

After the report was issued, the City Auditor scheduled a meeting with CCCIA to discuss the audit results for September 3, 2024. CCCIA provided a list of questions that the City Auditor and Mark Mason (in his capacity as the Financial Services Director) responded to (See **page 8** of the FILE for questions and **page 12** with our responses "Email Correspondence with Moran and CCCIA"). After providing the responses to CCCIA (page 12 of the file), the City Auditor received a call from Lynn stating, based on our responses, that they did not need to meet with the City. The meeting was cancelled. It must be without dispute that after the initial discussion in the City Auditor's Office (pertaining to the work to be performed), and the discussion on not performing a forensic audit, was the subject of a forensic audit of the Building Fund ever raised with the City by the CCCIA.

Attached to support response:

- Email Correspondence with Moran and CCCIA
- Building Fund Audit Entrance Conference Agenda
- Entrance and Exit Invites
- Building Fund Audit Engagement Letter
- Audit Types and Definitions

Emails sent to CCCIA during the audit to provide status updates.

From: [Andrea Russell](#)
To: [Christopher H. Moran](#); lynn@cccia.org; [Annette Carrasquillo - LAI Design Associates](#) (annettec@laidesignassoc.com); brian@premiercape.com
Cc: [Tim Disano](#)
Subject: Building Fund Audit status- response requested by 3/27
Date: Thursday, March 21, 2024 4:10:00 PM

Hello all,

It's hard to believe March is almost over! At our meeting on 2/27, we had mentioned audit status updates and I wanted to get one to you although we haven't started your audit yet. The audits Tim and I are working on are wrapping up. We're a little behind schedule but they ended up being a lot more work than we anticipated when we met in February. We hope to have them wrapped up by the end of next week. That being said, once they are done we can begin the planning process for the Building Fund audit. I will be scheduling the entrance conference which is the official kick off for the audit for early April. I'd like you to attend if you are able to, so you can be involved from the beginning of the audit process. I would appreciate if you could provide some dates and times you are available for the following dates IF you would like to attend. The meeting will be via teams so you don't have to physically be here, just dial in.

- April 1 all day
- April 2 1-4:00
- April 3 anytime after 10 and before 3:00
- April 9 all day
- April 10 all day
- April 16 all day

Please let me know your availability if you are interested in attending by next Wednesday 3/27, because I have to coordinate with City staff schedules as well. Thank you and we look forward to getting this audit started.

From: [Andrea Russell](#)
To: [Christopher H. Moran](#); [Annette Carrasquillo - LAI Design Associates \(annettec@laidesignassoc.com\)](#); [lynn@cccja.org](#)
Cc: [Tim Disano](#)
Subject: Building fund audit status update
Date: Wednesday, May 1, 2024 10:59:28 AM

Hello all,

Just wanted to provide you with a status update for the building fund audit. Planning is substantially complete. We have identified risks that we will address as part of fieldwork. I anticipate having an engagement letter with the specific scope and objectives completed within the next couple of weeks. Logistically we have a lot going on in the office, three audits, three year risk assessment and audit plan generation, and then more than half of the audit staff has training Monday and Tuesday next week. We need to meet to review risks prior to the engagement letter finalization so logistically it may be tough next week. Any questions please let me know. Happy May Day!

From: [Andrea Russell](#)
To: [Mark Mason](#); [Crystal Feast](#)
Cc: [Suzanne Lopez](#); [Michael Ilczyszyn](#); [Cheryl Mackowski](#); [Connie Barron](#); [Elisabeth Helsel](#); [Natalie Enrico](#); [Agnes Sikora](#); [Matt Grambow](#); [Christopher H. Moran](#); [Annette Carrasquillo - LAI Design Associates](#) (annettec@laidesignassoc.com); lynn@cccia.org; brian@premiercape.com; [Tim Disano](#)
Subject: 24-04 Building Fund Audit Engagement Letter
Date: Thursday, May 16, 2024 8:31:00 AM
Attachments: [Building Fund Audit Engagement Letter.pdf](#)

Hello,

As discussed at the entrance conference, after completing preliminary planning, we have finalized our scope and objective for the audit. This information is detailed in the attached engagement letter.

If you have any questions or comments regarding this audit, please feel free to reach out to me.

Thank you,

Email where I forwarded the engagement letter to CCCIA to keep them in the loop and inform them of the audit scope and objectives

From: [Andrea Russell](#)
To: [Christopher H. Moran](#); [Annette Carrasquillo - LAI Design Associates \(annettec@laidesignassoc.com\)](#); [brian@premiercape.com](#); [lynn@cccia.org](#)
Cc: [Tim Disano](#)
Subject: Building fund audit status update 6/6/2024
Date: Thursday, June 6, 2024 10:50:00 AM

Hello all,

Tim and I have completed planning and fieldwork testing is well underway. We are currently testing expenditures identified by the FY19-FY23 account analysis. For this testing we are verifying allowability and accuracy of expenditures for any line items we identified over a certain percent and dollar change. Testing is moving along. We will also be testing revenues, transfers, allocations and building fund expenditures. We anticipate having fieldwork complete prior to the end of June.

Thank you.

From: [Andrea Russell](#)
To: [Christopher H. Moran](#); [Annette Carrasquillo - LAI Design Associates \(annettec@laidesignassoc.com\)](#); [brian@premiercape.com](#); [lynn@cccia.org](#)
Cc: [Tim Disano](#); [Crystal Feast](#)
Subject: Building fund audit status update 7/15/2024
Date: Monday, July 15, 2024 12:12:42 PM

Hello all,

Fieldwork for the audit is substantially complete. We have forwarded our questions to Finance to address and have to allow at least a week for them to gather info and respond. We are a little behind schedule. This is due to the fact that we have a large scope FY19- 3/31/2024 (our scopes are usually no more than two years), and we also have to review information including support in 3 different systems due to conversions to the financial, payroll and permitting software programs that occurred throughout the scope of the audit. Tim and I appreciate your patience and can assure you the delay has nothing to do with the City or their responses. If you have any questions , please feel free to reach out! Hoping for a draft by the end of July.

Thank you.

From: [Lynn Boldissar](#)
To: [Andrea Russell](#)
Subject: RE: Building Fund Audit Final Status Update
Date: Tuesday, August 13, 2024 2:53:41 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

This Message Is From an External Sender

This message came from outside your organization.

Hi Andrea,

Based on my responses to their questions, they decided to cancel the 9/4 meeting

Thank you for the update. In discussing with my team we would like to meet with you on Sept 4th.
Let me know what times work best for you and your team on that date.

Thank you,



Lynn Boldissar
Executive Director

2023 CCCIA President's Award Winner

M: 239.770.8658

P: 239.772.0027

E: lynn@cccia.org

A: 4720 SE 15th Avenue, Suite 120

Cape Coral, FL 33904

www.cccia.org



MISSION STATEMENT: We are licensed professionals preserving the rights of our members and their clients, as leaders within the community.

From: Andrea Russell <arussell@capecoral.gov>

Sent: Thursday, August 8, 2024 5:14 PM

To: Christopher H. Moran <cmoran@moransmithcpa.com>; Lynn Boldissar <lynn@cccia.org>;

Annette Carrasquillo - LAI Design Associates (annettec@laidesignassoc.com)

<annettec@laidesignassoc.com>; brian@premiercape.com

Cc: Tim Disano <tdisano@capecoral.gov>

Subject: Building Fund Audit Final Status Update

Hello all,

This will be my final update on the audit since the exit meeting (which is the official “closure” of the audit process in next Wednesday, August 14th at 2:30 PM via MS Teams. The exit meeting is a formal wrap up of the audit in accordance with office policies and procedures and the standards to which we audit. I will be attaching an agenda to the invite shortly that details discussion points. Since the purpose of this meeting is to close the audit and discuss next steps with the audit client (Financial Services and the City), I would like to know if you (CCCIA) would like to have a separate meeting after this with just myself and my deputy. Tim and I would be the only representatives of the City (no Finance, no DS).

We can discuss any questions you may have about the audit, results, findings and management’s response to the findings. Please advise if you would like this separate meeting and provide several dates and times you are available in the upcoming weeks to discuss. As an FYI, the report may not be finalized on the 14th, so you may want to provide some dates and times for the following week of August 19th. In accordance with Generally Accepted Government Auditing Standards, to which we operate and our policies and procedures, I am prohibited from publicly releasing and discussing audit results prior to issuance with those not directly involved in the audit. I am inviting you to the exit as a courtesy to keep you informed. For this reason I would recommend we do meet after the exit, similar to our meeting at the start of the audit so I can answer any questions you may have now that the audit is complete. It was a very good audit and we developed some meaningful recommendations and identified areas for improvement.

Thank you for your assistance and understanding and I look forward to discussing this audit with you.



Andrea R. Russell, CPA, CFE, CIA, CGMA, City Auditor

CITY AUDITOR'S OFFICE

PO Box 150027, Cape Coral, Florida 33915-0027

Tel: (239)242-3380

arussell@capecoral.gov

From: [Christopher H. Moran](#)
To: [Andrea Russell](#)
Cc: lynn@cccia.org; [Annette Carrasquillo - LAI Design Associates \(annettec@laidesignassoc.com\)](mailto:Annette.Carrasquillo@laidesignassoc.com); brian@premiercape.com; [Tim Disano](#); [Molly Liebegott](#)
Subject: Re: FW: 24-04 Building Fund Audit
Date: Tuesday, September 3, 2024 12:29:48 PM
Attachments: [citysiq_5192c596-1fa2-46ae-ab84-9f9deeab5912.png](#)

This Message Is From an External Sender

This message came from outside your organization.

Andrea thanks for agreeing to go over the report. We do have some advanced questions we would like to get answered.

- Do you have workpapers documenting all your findings?
- How many years did you actually examine?
- Do you have a list of all employees and costs that have had any time charged to the building fund for each years examined?
- Do you have the documentation supporting all the costs that have been charged to the Building fund for the period examined?
- Is the city charging the building fund indirect overhead as well as direct expenses, and is the overhead rate documented?
- Has the City had an outside overhead rate study performed?
- How is the overhead rate calculated and applied?
- Were you able to review the costs for the EnerGov and how that was calculated?
- You stated that the City was not in compliance with the FS regarding fund balance - can you please give us the specific years ?
- the City transferred \$833,333 a month to "Bldg Cap project fund" of which the city has not spent any of that to enforce the building Code, do you still consider the amount restricted to be used to enforce the building code ? and is this amount still considered to be part of fund balance ?
- Does the city have any documentation on the intended uses of the "Bldg Cap project fund"
- Do you have documentation supporting the allocation of costs related to the Fire Department fund?
- Do you have any documentation supporting how the City paid for the lost revenue related to " waived or reduced Permit fees after hurricane Ian?

Thanks so much for your time on this.
Chris Moran

On Tue, Aug 27, 2024 at 11:48 AM Andrea Russell <arussell@capecoral.gov> wrote:

| All,

Please see the copy of the audit report that was issued. I look forward to our meeting next week. Feel free to forward any questions you may have about the report to me prior to the meeting so I can prepare some answers to make the best use of our time.

Thank you.



Andrea R. Russell, CPA, CFE, CIA, CGMA, City Auditor

CITY AUDITOR'S OFFICE
PO Box 150027, Cape Coral, Florida 33915-0027
Tel: (239)242-3380
arussell@capecoral.gov

From: Molly Liebegott <mliebego@capecoral.gov>

Sent: Wednesday, August 21, 2024 4:40 PM

To: John Gunter <jgunter@capecoral.gov>; Jessica Cosden <jcosden@capecoral.gov>; Tom Hayden <thayden@capecoral.gov>; Keith Long <klong@capecoral.gov>; Dan Sheppard <dsheppard@capecoral.gov>; Bill Steinke <bsteinke@capecoral.gov>; Robert Welsh <rwelsh@capecoral.gov>; Richard Carr Jr. <rcarr@capecoral.gov>; Connie Griglin <cgriglin@capecoral.gov>; James Kowaleski <jkowaleski@capecoral.gov>; Lisa Williams <lwilliams@capecoral.gov>

Cc: John Stevens <jstevens.ccac@gmail.com>; Pam Austin <PamnGerry@msn.com>; jillhiatt69@gmail.com; Tom Hayden <thayden@capecoral.gov>; Wesley Cochrane <Info@WesCochrane.com>; jkbottesbusch@gmail.com; Michael Ilczyszyn <milczysz@capecoral.gov>; Connie Barron <cbarron@capecoral.gov>; Sarah Newcomb <snewcomb@capecoral.gov>; Cheryl Mackowski <cmackows@capecoral.gov>; Aleksandr Boksner <aboksner@capecoral.gov>; Lisa Fowler <lfowler@capecoral.gov>; Kimberly Bruns <kbruns@capecoral.gov>; Sharon Wolowski <swolowsk@capecoral.gov>; Sheri Rhine <srhine@capecoral.gov>; Stacey Pasek <spasek@capecoral.gov>; Betty Castillo <bcastillo@capecoral.gov>; Mark Mason <mmason@capecoral.gov>; Crystal Feast <cfeast@capecoral.gov>; Natalie Enrico <nenrico@capecoral.gov>; Suzanne Lopez <slopez@capecoral.gov>; Matt Grambow <mgrambow@capecoral.gov>; Jennifer Ingram <jingram@capecoral.gov>; Andrea Russell <arussell@capecoral.gov>; Tim Disano <tdisano@capecoral.gov>; Philip Toby <ptoby@capecoral.gov>; Joseph Devone <jdevone@capecoral.gov>; Jessica Pautz <jpautz@capecoral.gov>

Subject: 24-04 Building Fund Audit

Hello Mayor Gunter and Council Members,

Please find attached the final audit report for the Building Fund Audit. For questions or comments regarding this audit, please contact Andrea Russell at 242-3380, or ext. 3380.

Thank you,



Molly Liebegott, Senior Administrative Specialist

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PO Box 150027, Cape Coral, Florida 33915-0027
Tel: (239) 242-3383 or ext. 3383
mliebego@capecoral.gov

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Christopher H Moran CPA LLC

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From: [Michael Ilczyszyn](#)
To: [Andrea Russell](#); [Mark Mason](#); [Crystal Feast](#)
Subject: Re: Meeting news
Date: Wednesday, September 4, 2024 10:40:03 AM
Attachments: [citysig_5192c596-1fa2-46ae-ab84-9f9deeab5912.png](#)
[citysig_b1f948c1-2deb-495a-9882-8b605a337185.png](#)

Wonderful! Tyvm



Michael Ilczyszyn, City Manager

CITY MANAGER'S OFFICE
1015 Cultural Park Boulevard Cape Coral, Florida 33990
Tel: 4450 (574-0450)
milczysz@capecoral.gov

From: Andrea Russell <arussell@capecoral.gov>
Sent: Wednesday, September 4, 2024 10:26:14 AM
To: Mark Mason <mmason@capecoral.gov>; Crystal Feast <cfeast@capecoral.gov>; Michael Ilczyszyn <milczysz@capecoral.gov>
Subject: Meeting news

FYI- Just got a call from Lynn- we did such a good job answering the questions there was no need to meet. Lynn mentioned they will be taking the answers to the board next week so she may have more questions but for now we're good!



Andrea R. Russell, CPA, CFE, CIA, CGMA, City Auditor

CITY AUDITOR'S OFFICE
PO Box 150027, Cape Coral, Florida 33915-0027
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From: [Andrea Russell](#)
To: lynn@cccja.org; [Christopher H. Moran](#); brian@premiercape.com; [Annette Carrasquillo - LAI Design Associates](#)
(annettec@laidesignassoc.com)
Cc: [Tim Disano](#)
Subject: Responses to Building Fund Audit questions
Date: Wednesday, September 4, 2024 8:41:44 AM

All, thank you for getting me your questions prior to the meeting. I have provided my responses in [blue](#). Some questions were better answered by Finance so I forwarded to Mark Mason. He has provided his answers in [red](#). We can discuss these and any others you may have at the meeting. Thank you

- Do you have workpapers documenting all your findings?
Of course. In order to comply with our standards we audit to we have to prepare workpapers as part of the audit that support all testing including findings.
- How many years did you actually examine? *Please see the audit report Scope section page 8 FY19 through March 31, 2024 (portion of FY24)*
- Do you have a list of all employees and costs that have had any time charged to the building fund for each years examined? *Yes this is how we performed our testing.*
- Do you have the documentation supporting all the costs that have been charged to the Building fund for the period examined? *We have documentation for all of the costs selected for testing. This also is detailed in the Methodology section of the report also on page 8*
- Is the city charging the building fund indirect overhead as well as direct expenses, and is the overhead rate documented? *The city allocates certain expenses via the full cost allocation. I audited this FY23. The audit is posted to the website 23-04.*
- Has the City had an outside overhead rate study

performed? *No please see the full cost allocation audit 23-04*

- How is the overhead rate calculated and applied? *It depends on the cost allocated. For example, HR charges to the fund are allocated based on the number of FTEs in the Building Division compared to total FTEs. Allocations included HR administration, Benefits, recruitment. These allocations are applied consistently for funds that are included in the full cost allocation. These include Building, CDBG, Stormwater, etc.*
- Were you able to review the costs for the EnerGov and how that was calculated? *Because the scope was so large (5+ years) we performed a year over year analysis. Selected some expenditures directly and selected a random sample for the remainder of the 60 invoices we selected. For the analysis we looked at a warranty invoice which touched on different aspects of Tyler Munis that included EnerGov and how the charges were allocated.*
- You stated that the City was not in compliance with the FS regarding fund balance - can you please give us the specific years ? *Please see finding 2024-01 page 3 of the report. This info is included in the condition. FY19, FY20, FY21.*
- the City transferred \$833,333 a month to "Bldg Cap project fund" of which the city has not spent any of that to enforce the building Code, do you still consider the amount restricted to be used to enforce the building code

? and is this amount still considered to be part of fund balance ? *The City Auditor's office does not restrict funds. This is a decision made by the Financial Services department and the methodology for considering this restricted is best discussed with Financial Services. We looked at the transfer in total and the associated explanation for the transfer as part of our allocations and transfers testing. Yes, the City considers the funds included in the "Bldg Cap project fund" to be restricted for the enforcement of the building code pursuant to Section 553.80(7)(a)2, F.S. No, the amount is not considered part of fund balance as defined in Section 553.80(7)(a), F.S. In fact, Section 553.80(7)(a)2 specifically allows for the set aside for the purpose of construction of a building or structure that houses a local government's building code enforcement agency and provides that it is separate from the fund balance it was removed from.*

- Does the city have any documentation on the intended uses of the "Bldg Cap project fund" *This is a question for Finance. Other than what was provided to be included in the FY 2022-2024 budget, no.*
- Do you have documentation supporting the allocation of costs related to the Fire Department fund? *I do not have any documentation for this.*
- Do you have any documentation supporting how the City paid for the lost revenue related to " waived or reduced Permit fees after hurricane Ian? *I do not have any*

documentation for this as we did not specifically look at revenues. We performed a walkthrough of the permit fee cashiering process overall and were satisfied with the controls based on the walkthrough. We did not review revenues in our testing.

From: [Christopher H. Moran](#)
To: [Andrea Russell](#); lynn@cccja.org
Subject: Re: Building Fund Audit status- response requested by 3/27
Date: Monday, April 15, 2024 10:27:30 AM
Attachments: [citysiq_5192c596-1fa2-46ae-ab84-9f9deeab5912.png](#)

This Message Is From an External Sender

This message came from outside your organization.

ANDREA, TAKE A LOOK AT THE BELOW ARTICLE. I RECEIVED IT FROM A BREVARD COUNTY ATTORNEY, AND HE WAS INVOLVED IN THE BUILDING PERMIT FEE PROCESS YEARS AGO. IT IS KIND OF INTERESTING, IT GOES BACK TO FEES THAT HAVE TO BE JUSTIFIED.

OPINION ANALYSIS

Court rules for property owner in building fee dispute



By [Amy Howe](#)
on Apr 12, 2024 at 1:56 pm

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A man holds open a barn door



George Sheetz at his home in El Dorado County, Calif. (Pacific Legal Foundation)

California homeowner George Sheetz won a victory at the Supreme Court on Friday in his challenge to the constitutionality of a fee that he was required to pay the county to receive a permit to build his home. In a unanimous decision authored by Justice Amy Coney Barrett, the justices agreed with Sheetz that conditions on building permits should be subject to heightened scrutiny even if they were authorized by legislation, rather than imposed on an individual basis by administrators.

The decision was a relatively narrow one that did not come as much of a surprise after the oral argument in January, at which Justice Neil Gorsuch had observed that both Sheetz and the county were in “radical agreement” on the question that the court had agreed to decide. The justices on Friday answered only that question – in Sheetz’s favor – and sent the case back to the state courts for another look in light of the Supreme Court’s decision.

The dispute began in 2016, when Sheetz wanted to build a manufactured home on a lot that he owns in Placerville, Calif. El Dorado County, where the lot is located, told Sheetz that he would

be required to pay “traffic impact mitigation fees” before he could receive a building permit. Sheetz paid the fee, but he also went to state court to challenge the fee’s constitutionality.

Sheetz argued that the fee violated the Fifth Amendment’s takings clause, which bars the government from taking private property for public use “without just compensation.” He told the state courts that to determine whether the fee passes constitutional muster, they should apply the test outlined by the Supreme Court in two property rights cases, *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard, Oregon*. Those cases, taken together, hold that if a government wants to require someone to give up property in exchange for a land-use permit, it must show that such a condition is closely related and roughly proportional to the effects of the proposed land use. In Sheetz’s case, he argued, they meant that the county was required to make a case-by-case determination that the \$24,000 fee was necessary to offset the impact of congestion attributable to his project.

The state courts declined Sheetz’s suggestion. They concluded that the *Nollan/Dolan* test only applies to fees imposed on an individual basis, rather than fees – like the traffic impact mitigation fee – authorized by legislation.

The Supreme Court on Friday disagreed. In her 11-page opinion for a unanimous court, Barrett explained that nothing in the text of the Constitution indicates that the takings clause does not apply to fees imposed by legislatures. The same is true, she continued, for the history of the takings clause. “In fact,” she wrote, “special deference for legislative takings would have made little sense historically, because legislation was the conventional way that governments exercised their eminent domain power.” Nor, she added, do the Supreme Court’s cases interpreting the takings clause distinguish in any way “between legislation and other official acts.”

Barrett emphasized that the court’s ruling did not resolve some of the other issues raised by Sheetz’s challenge regarding the validity of the fee – “including whether a permit condition imposed on a class of properties must be tailored with the same degree of specificity as a permit condition that targets a particular development.” The state appeals court did not weigh in on this or other unresolved questions, Barrett explained, because it “proceeded from the erroneous premise that legislative permit conditions are categorically exempt from the requirements of *Nollan* and *Dolan*.” “Whether the parties’ other arguments are preserved and how they bear on Sheetz’s legal challenge are,” Barrett concluded, “for the state courts to consider in the first instance.”

Three different justices wrote brief concurring opinions in which they weighed in on some of the issues that they raised at the oral argument and some of the questions left unanswered by the court’s ruling. Justice Sonia Sotomayor had in January pointed to other property-related fees that governments often impose and questioned whether the takings clause applies to Sheetz’s case at all. In an opinion joined by Justice Ketanji Brown Jackson, she argued that *Nollan* and *Dolan* only apply if the fee would have been a taking of property requiring government compensation if the government had imposed it outside the permitting process. That question, Sotomayor indicated, remains open in Sheetz’s case.

For Gorsuch, the answer to the question “whether the *Nollan/Dolan* test operates different when an alleged taking affects a ‘class of properties’ rather than a ‘particular development’” was clear: “Nothing about that test depends on whether the government imposes the challenged condition on a large class of properties or a single tract or something in between.”

But in a one-paragraph opinion, Justice Brett Kavanaugh – joined by Jackson and Justice Elena Kagan – wrote separately to stress that the court had “explicitly decline[d] to decide” the question flagged by Gorsuch in his concurring opinion. Therefore, Kavanaugh noted, the court’s ruling in Sheetz’s case “does not address or prohibit the common government practice of imposing permit conditions, such as impact fees, on new developments through reasonable formulas or schedules that assess the impact of classes of development rather than the impact of specific parcels of property.” Moreover, Kavanaugh stressed, “no prior decision of this Court has addressed or prohibited that longstanding practice.”

This article was [originally published at Howe on the Court](#).

Posted in [Featured](#), [Merits Cases](#)

Cases: [Sheetz v. County of El Dorado, California](#)

Recommended Citation: Amy Howe, *Court rules for property owner in building fee dispute*, SCOTUSblog (Apr. 12, 2024, 1:56 PM), <https://www.scotusblog.com/2024/04/court-rules-for-property-owner-in-building-fee-dispute/>

On Thu, Mar 21, 2024 at 4:10 PM Andrea Russell <arussell@capecoral.gov> wrote:

Hello all,

It’s hard to believe March is almost over! At our meeting on 2/27, we had mentioned audit status updates and I wanted to get one to you although we haven’t started your audit yet. The audits Tim and I are working on are wrapping up. We’re a little behind schedule but they ended up being a lot more work than we anticipated when we met in February. We hope to have them wrapped up by the end of next week. That being said, once they are done we can begin the planning process for the Building Fund audit. I will be scheduling the entrance conference which is the official kick off for the audit for early April. I’d like you to attend if you are able to, so you can be involved from the beginning of the audit process. I would appreciate if you could provide some dates and times you are available for the following dates IF you would like to attend. The meeting will be via teams so you don’t have to physically be here, just dial in.

- April 1 all day
- April 2 1-4:00
- April 3 anytime after 10 and before 3:00
- April 9 all day
- April 10 all day
- April 16 all day

Please let me know your availability if you are interested in attending by next Wednesday 3/27, because I have to coordinate with City staff schedules as well. Thank you and we look forward to getting this audit started.

| **Andrea R. Russell, CPA, CFE, CIA, CGMA, City Auditor**



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Tel: (239)242-3380
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Entrance Conference Meeting Agenda and Audit Process Outline

Audit Number and Title: 24-04 – Building Fund Audit

Department: Citywide

Date and Time of meeting: April 3, 2024, at 10:00 AM

Meeting Agenda

- Staff Introductions:
 - *Auditor In Charge:* Andrea Russell
 - *Audit Team Members:* Tim DiSano and Philip Toby
- Authority and Standards
- Phases of the Audit
- Closing Comments

Authority and Standards

- 1) The City Charter grants the City Auditor's Office authority to access any and all city records, facilities, and personnel.
- 2) We will be conducting a performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Pursuant to 1.21- "*Performance audits provide objective analysis, findings, and conclusions to assist management and those charged with governance and oversight with, among other things, improving program performance and operations, reducing costs, facilitating decision making by parties responsible for overseeing or initiating corrective action, and contributing to public accountability.*"
- 3) Administrative Regulation (AR) G-2 provides details and requirements of the client regarding management response to audit findings and implementation of audit recommendations. AR G-2 further provides details regarding CAO follow-up procedures for determining if audit recommendations have been properly implemented by management.

Phases of the Audit

- 1) *Planning and Preliminary Survey Phase*
 - We review applicable laws, regulations, city policy, and department/division policy and procedures.
 - We must be granted **read-only access** to all programs, databases, and records.
 - **The Department will need to designate a contact person for the audit.** (e.g., someone with hands on knowledge of all department/program operations, other than the department head)

CONTACT PERSON: _____

- Audit Communication
 - All document requests will be sent in writing (via email or TeamMate document request).
 - All responses must be provided by the requested response date or communication must be made to Requestor to determine an alternate date.
 - It will be the responsibility of the point of contact to forward any document requests to others if necessary and compile responses.
- We review management's goals and the actual processes followed by conducting interviews and observations of personnel.
- Based on the above procedures, we determine areas of risk and then select our objective(s) for the audit, if not previously determined.
 - It may become necessary to expand our scope as items come to our attention during the audit.
 - Also, we consider management's request in determining which areas to focus our audit.

2) *Fieldwork/Testing Phase*

- We will perform detailed testing of selected records which enables us to eventually draw conclusions about the audit objective(s).
 - Any audit findings will be objective, factual, and considered in perspective.
 - Any findings or exceptions relating to the operations uncovered from audit work will be discussed as soon as practicable with the auditee prior to inclusion in the draft report. **It is crucial that we receive feedback from the auditee on any findings or exceptions that we have presented throughout the course of the audit** to ensure that our draft report is as accurate as possible.

3) *Reporting Phase*

- We will provide the department with a copy of our draft audit report after reviewing our findings with them.
- **Management must provide responses within 10 business days of delivery of the draft finding and recommendations and the draft audit report.**
- Management responses should detail "how" the recommendations will be implemented.
- The final report will include management's response(s) and corrective action plan(s). The response and corrective action plan should be accurate and respond to the finding and/or recommendation. They should include a **Management Action Plan Coordinator/Responsible Individual** and **Anticipated Completion Date**. The CAO will discuss any inaccurate or

misleading responses with the Department Director/Management Action Plan Coordinator.

- We conduct our audits in an independent and objective manner according to GAGAS (Yellow Book). When we determine instances of violations of law (i.e., City Ordinance), regulations, grants, or contract agreements that are within the scope of our audit area, we must report it as a finding. Also, we must report violations when detected even if not within the scope of our audit in accordance with GAGAS 9.29-9.31; 9.35-9.36 which require us to report such violations.

4.) Post Issuance/Wrap Up

- A Post-Audit Survey will be sent out shortly after the final report is issued. Please complete the survey within 10 business days of receipt. Be honest in your assessment and feedback of the audit process as we use feedback to track department metrics and continuously improve our processes.
- Follow up on findings will be conducted through TeamMate. Management Action Plan Coordinators will receive reminders and must enter status comments in TeamMate and upload all information to TeamMate.
- Requests for time extensions for recommendation responses must be emailed to the City Auditor prior to the anticipated completion date.

Closing Comments

- 1) General time frame of audit.
- 2) General scope of the audit to extent known at this time.
- 3) General objective(s) of the audit to the extent known at this time.
- 4) Findings and Recommendations managed through Issue Tracking within TeamMate.

Acknowledgement of receipt of a copy of this document, as well as understanding of the process, area under audit and the department/division/office's responsibilities:

Signature of Financial Services Director

Date

Signature of City Auditor

Date

Entrance Conference 4/3/2024

Note CCCIA attendees highlighted

Attendee responses: 10 accepted, 1 tentatively accepted, 1 declined.

Send Update

TitleBuilding Fund Audit Entrance Conference

Required

lynn@cccia.org

Annette Carrasquillo - LAI Design Associates (annettec@laidesignassoc.com)

brian@premiercape.com

Mark Mason

Matt Grambow

Tim Disano

Philip Toby

Natalie Enrico

Agnes Sikora

Christopher H. Moran <cmoran@moranumithcpa.com>

Optional

Crystal Feast

Suzanne Lopez

Molly Liebegott

Jennifer Ingram

Bogdan Cyrnek

Michael Ilcyszyn

Connie Barron

Maureen Buice

Start time

Wed 4/3/2024

10:00 AM

Eastern Time (US & Cana)

All day

Time zones

End time

Wed 4/3/2024

10:30 AM

Eastern Time (US & Cana)

Make Recurring

LocationMicrosoft Teams Meeting

Building Fund Audit Entrance Conference Agenda.docx
2 MB

The purpose of the meeting is to officially kick off the Building Fund Audit.
Agenda attached*

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 236 942 185 04

Passcode: Z7oGe6

File	Meeting	Scheduling Assistant	Tracking	Insert	Format Text	Review	Help	Tell me what you want to do
<div>Copy Status to Clipboard</div> <div>Export</div>								
The following responses to this meeting have been received:								
Name	Attendance	Response						
<input checked="" type="checkbox"/> Andrea Russell	Meeting Organizer	None						
<input checked="" type="checkbox"/> Crystal Feast	Optional Attendee	Tentative						
<input checked="" type="checkbox"/> Suzanne Lopez	Optional Attendee	Accepted						
<input type="checkbox"/> Molly Liebegott	Optional Attendee	None						
<input checked="" type="checkbox"/> Jennifer Ingram	Optional Attendee	None						
<input checked="" type="checkbox"/> Bogdan Cyrnek	Optional Attendee	None						
<input checked="" type="checkbox"/> Michael Ilcyszyn	Optional Attendee	Declined						
<input checked="" type="checkbox"/> Connie Barron	Optional Attendee	None						
<input checked="" type="checkbox"/> Maureen Buice	Optional Attendee	None						
<input checked="" type="checkbox"/> lynn@cccia.org	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Annette Carrasquillo - LAI	Required Attendee	Accepted						
<input checked="" type="checkbox"/> brian@premiercape.com	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Mark Mason	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Matt Grambow	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Tim Disano	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Philip Toby	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Natalie Enrico	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Agnes Sikora	Required Attendee	Accepted						
<input checked="" type="checkbox"/> Christopher H. Moran <cmoran@moranumithcpa.com>	Required Attendee	None						
Add a name here								

Exit Conference 8/14/2024

Attendee responses: 11 accepted, 0 tentatively accepted, 1 declined.

Send Update

Title24-04 Building Fund Exit Meeting

Required

Mark MasonTim DisanoCrystal FeastNatalie EnricoAgnes Sikoralynn@cccia.orgAnnette Carrasquillo - LAI Design Associates (annettec@laidesignassoc.com)brian@premiercape.comChristopher H. Moran c.moran@moransmithcpa.com

Optional

Matt GrambowBogdan CynekMichael IlcyszynConnie BarronMaureen BuiceMolly LiebegottSuzanne LopezJennifer IngramShane Kittendorf

Start time

Wed 8/14/20242:30 PMEastern Time (US & Cana)All dayTime zones

End time

Wed 8/14/20243:00 PMEastern Time (US & Cana)Make Recurring

Location

Microsoft Teams Meeting

Exit Agenda - Building Fund Audit.docx47 KB

****AGENDA ATTACHED****

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 292 862 083 38

Note CCCIA attendees highlighted

The following responses to this meeting have been received:

	Name	Attendance	Response
<input checked="" type="checkbox"/>	Andrea Russell	Meeting Organizer	None
<input checked="" type="checkbox"/>	Mark Mason	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Tim Disano	Required Attendee	None
<input checked="" type="checkbox"/>	Crystal Feast	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Natalie Enrico	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Agnes Sikora	Required Attendee	Accepted
<input checked="" type="checkbox"/>	lynn@cccia.org	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Annette Carrasquillo - LAI	Required Attendee	Accepted
<input checked="" type="checkbox"/>	brian@premiercape.com	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Christopher H. Moran c.moran	Required Attendee	Accepted
<input checked="" type="checkbox"/>	Matt Grambow	Optional Attendee	Declined
<input checked="" type="checkbox"/>	Bogdan Cynek	Optional Attendee	None
<input checked="" type="checkbox"/>	Michael Ilcyszyn	Optional Attendee	None
<input checked="" type="checkbox"/>	Connie Barron	Optional Attendee	None
<input checked="" type="checkbox"/>	Maureen Buice	Optional Attendee	None
<input checked="" type="checkbox"/>	Molly Liebegott	Optional Attendee	None
<input checked="" type="checkbox"/>	Suzanne Lopez	Optional Attendee	Accepted
<input checked="" type="checkbox"/>	Jennifer Ingram	Optional Attendee	Accepted
<input checked="" type="checkbox"/>	Shane Kittendorf	Optional Attendee	Accepted
	Add a name here		



City Auditor's Office

TO: Mark Mason, Financial Services Director
FROM: Andrea R. Russell, City Auditor *ARR*
DATE: May 16, 2024
SUBJECT: 24-04 Building Fund Audit Engagement Letter

As a supplement to our entrance conference for the above referenced audit, we are providing the following information in relation to our planned scope, methodology, and objectives. The scope, methodology, and objectives are subject to expansion or changes as deemed necessary during the performance of the audit. The following is intended as an overview only:

Scope

The scope of the audit will include Building Fund policies, procedures, and transactions from FY19 through March 31, 2024.

Methodology

Our approach includes interviews with staff, reviews of relevant laws, regulations, agreements, policies, and examination of source documents.

Objectives

- To determine if transactions in the Building Fund are allowable in accordance with Florida State Statute and City policies and procedures.
- To determine if the Building Fund's fund balance is accurate and complies with the Florida State Statute.

C: Michael Ilczyszyn, City Manager
Connie Barron, Assistant City Manager
Crystal Feast, Deputy Financial Services Director
Natalie Enrico, Senior Accounting Manager
Agnes Sikora, Senior Accountant
Matt Grambow, Interim Development Services Director
Christopher H. Moran, CPA, Moran Smith CPA
Annett Carrasquillo, CCCIA
Lynn Boldissar, CCCIA
Brian Gomer, CCCIA

FORENSIC AUDITS

- Purpose

- Investigate financial records to uncover potential fraud, misconduct, or other irregularities

- Goals

- Detect fraud or misconduct; Gather evidence for legal proceedings or disputes; Identify financial discrepancies; Assess compliance; Reconstruct financial events, support litigation; Mitigate future risks

- Key Focus Areas

- Tracing transactions; Identifying misappropriation of funds; Providing evidence for legal proceedings

- Applications

- Fraud detection
- Litigation support
- Insurance claims

- Special Skills

- Requires expertise in accounting, investigation, and legal knowledge

SUMMARY

Audit Type	Purpose	Key Focus Areas	Who Performs?	Why would we do this audit?
Performance Audit	<ul style="list-style-type: none"> * Evaluate the efficiency and effectiveness of operations. * Assess whether programs are achieving intended outcomes. 	<ul style="list-style-type: none"> * Measuring program effectiveness. * Identifying areas for improvement. 	* City Auditor's Office	<ul style="list-style-type: none"> * Adopted Audit Plan *Area identified through audit, special project * Council request * Audit Committee request * City Charter
Financial Audit	* Accuracy of financial data	* Transactions, assets, liabilities	<ul style="list-style-type: none"> * External Audit Firm - City Auditor oversees and manages contract *May also be performed by the City Auditor's office 	<ul style="list-style-type: none"> * Competitively bid Contract * Florida State Statute * City Charter * Adopted Audit Plan
Compliance Audit	* Adherence to laws/regulations	* Legal standards, policies	<ul style="list-style-type: none"> * City Auditor's Office * May also be performed by External Audit Firm 	<ul style="list-style-type: none"> *To assess adherence to laws/regulations/policies and procedures *Federal, State and Local laws and regulations *Adopted Audit Plan
IT Audit	* Assess technology infrastructure; and data security	<ul style="list-style-type: none"> * Cybersecurity measures * Data privacy policies * System functionality 	<ul style="list-style-type: none"> * City Auditor's Office * May also performed by External Audit Firm 	<ul style="list-style-type: none"> * Adopted Audit Plan *Area identified through audit, special project * Council request * Audit Committee request * City Charter
Forensic Audit	* Investigate financial records to uncover fraud or irregularities	<ul style="list-style-type: none"> * Tracing transactions, identifying misappropriation of funds * Providing evidence for legal proceedings 	<ul style="list-style-type: none"> * External Audit Firm - City Auditor oversees and manages contract 	*Performed on as needed basis by areas identified by another audit or hotline call