



**OFFICE OF INSPECTOR GENERAL  
CITY OF JACKSONVILLE**

**CONTRACT OVERSIGHT OBSERVATION  
NUMBER: 2017-10-0006**

Steven E. Rohan  
Interim Inspector  
General

**ISSUE DATE: DECEMBER 6, 2016**

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Complaint alleging a private business improperly installed fencing, trees and bushes on City of Jacksonville (COJ) Right of Way (ROW).

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On October 20, 2016, the Office of Inspector General (OIG) received a complaint from a COJ citizen (the Complainant) alleging that the business located at 6670 Arlington Rd., was operating within the COJ ROW. Specifically, the Complainant asserts that the business had erected a large chain link fence and had removed a Sabal Palm and planted three loquat trees, or bushes, on the ROW.

**Summary of Findings:**

After inspection of the property, the Topographical Survey Section of the Department of Public Works found that while the fence was in fact on the ROW, it was not an issue to the Engineering Division from an encroachment perspective, because it did not encroach in the Federal Highway Administration's (FHWA) Horizontal Clear Zone. This is supported by the Municipal Code Compliance Division's (MCCD) subsequent inspection of the property and determination that the fencing on the property is not impacting the use of the road or any COJ operations.

**Detailed Findings:**

The Complainant had initially requested via email (dated July 10, 2016) that W. Monroe Hazen, PLS, City Surveyor, Manager-Topographical Survey Section, Department of Public Works check on whether the business located at 6670 Arlington Road was operating within the ROW. Mr. Hazen notified the Complainant (via July 19, 2016 email) that while the chain link fence was built within the ROW, the fence is "within the existing previously approved [permitted] paved area and does not encroach in the FHWA defined Horizontal Clear Zone." The email went on to note that "the fence is not an issue to the Engineering Division from an encroachment perspective."

After receiving the complaint, the OIG's Contract Specialist (CS) reviewed the documentation provided by the Complainant, as well as records obtained from the COJ Property Appraiser's Office. The CS contacted Devron Cody, Code Enforcement Administrator, Neighborhoods Department, MCCD and requested that MCCD determine whether the business located at 6670

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Arlington Rd., was operating within the ROW. MCCD responded via email (dated October 27, 2016) that the fencing is “on their [the owner’s] property, not the right of way.” The determination of MCCD that the fence was not in the right of way (an opinion which was inconsistent with the survey data) was based on the inspection of the property and a review of a geographic information system mapping program (it was not based on survey points or measurements). MCCD also provided several photographs of the property and the fence. The CS followed up telephonically with the MCCD inspector, Gary Roberts, Senior Compliance Officer, to request clarification regarding the status of any bushes or trees on the ROW. Mr. Roberts confirmed that there were no trees or bushes outside of the fence when he was present at the property on October 27, 2016.

**Conclusion:**

Based on the documentation provided by the Complainant, the COJ Department of Public Works is aware of the ROW issue and does not see the fence as an issue to the COJ. Based on its inspection of the property, MCCD does not believe the business owner is interfering with the ROW. While the business owner on the property does appear to have erected a fence on the COJ ROW, it does not appear to be adversely affecting the public interest and does not appear to be in violation of any other municipal code provision.

**Recommendations:**

Pursuant to Sec. 744.110(e), *Ordinance Code*, the Director of Public Works is authorized to address right-of-way encroachments by, “upon finding such improvements do not adversely affect the public interest, to issue and to execute on behalf of the City a revocable permit and indemnification agreement in such form as the Director may establish.” Given the determinations of both the Public Works Survey Section and the MCCD, the Director should consider such a revocable permit in this instance to perfect and conform the record.

No further action by the OIG on this matter is warranted at this time and Correspondence Number : 2017-10-0006 is closed. By copy of this Contract Oversight Observation, the OIG has submitted its recommendations to the Administration.

Respectfully Submitted,



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Interim Inspector General

Ken Swain  
Contract Specialist  
Dated: December 6, 2016

- cc: Sam Mousa, Chief Administrative Officer  
Marlene Russell, Director - Organizational Effectiveness  
W. Monroe Hazen, PLS, City Surveyor, Manager, Topographical Survey Section,  
Public Works Department  
Devron Cody, Code Enforcement Administrator, Neighborhoods Department  
John Pappas, P.E., Director, Public Works Department  
Complainant