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# OFFICE OF THE CITY AUDITOR

## AUDIT OF THE EFFICIENCY AND EFFECTIVENESS OF THE BOARD OF ADJUSTMENT PROCESS

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**September 27, 2002  
Report No. 369**

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## Memorandum



**CITY OF DALLAS**

September 27, 2002

Honorable Mayor and Members of the City Council  
City of Dallas

We have conducted an audit of the efficiency and effectiveness of the Board of Adjustment process as requested by the Director of Planning and Development.

We found that the efficiency and effectiveness of the Board of Adjustment process, and related procedures and practices, should be improved. The *Opportunities for Improvement* section of this report provides further information.

We appreciate the cooperation of City staff during our examination.

*Thomas M. Taylor*

Thomas M. Taylor, CPA  
City Auditor

c: Teodoro J. Benavides, City Manager

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**AUDIT OF THE EFFICIENCY AND EFFECTIVENESS OF THE BOARD OF  
ADJUSTMENT PROCESS**

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**CONTENTS**

	<b><u>PAGE</u></b>
EXECUTIVE SUMMARY	1
INTRODUCTION	2
Authorization	2
Scope and Methodology	2
Overall Conclusion	3
Background	3
MANAGEMENT'S ACCOMPLISHMENTS	5
OPPORTUNITIES FOR IMPROVEMENT	6
APPENDIX A	18
APPENDIX B	20

## EXECUTIVE SUMMARY

We have conducted an audit of the efficiency and effectiveness of the Board of Adjustment (BOA) Process, which is administered by the Planning and Development Department.

As a result of inquiries, testing, and evaluation, we concluded that the BOA process should be made more efficient and effective. The major findings are summarized below.

- The City may enhance BOA program effectiveness by re-evaluating the number of Board panels and taking steps to ensure that panels are fully appointed with an adequate number of experienced members.
- Current fees do not offset the cost of providing panel evaluations or provide for adequate fee assessments for any additional cost incurred due to applicant actions. In various cases BOA fees are waived, thereby increasing City costs.
- Steps within the application process can be made more time/cost efficient and process effective.
- Various BOA members need more technical training to fulfill their assigned responsibilities.
- Various current and former BOA members have issues regarding having adequate, timely access to needed professional City staff.
- The City's website should be used to provide an online BOA board member application. It should also be used to provide information to citizens regarding the BOA hearing process.
- The performance measurement system to monitor BOA efficiency and effectiveness is not sufficiently comprehensive.

We commend the Planning and Development Department for accepting our recommendations and taking self-initiated action (during the course of our audit) to begin implementing various suggested recommendations.

## INTRODUCTION

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### Authorization

We have conducted an audit of the efficiency and effectiveness of the Board of Adjustment (BOA) process as requested by the Director of Planning and Development. The 2000-2001 Annual Audit Plan approved by Council included an audit to review the efficiency and effectiveness of code amendment processing. Departmental concerns identified by the Director of Planning and Development were incorporated in the audit scope. Limited assigned audit hours and importance of expressed departmental concerns resulted in narrowing the audit scope to provide for a review of the Board of Adjustment process. This audit was conducted under the authority of Chapter IX, Section 2 of the Dallas City Charter and in accordance with the Annual Audit Plan approved by the City Council.

### Scope and Methodology

Our examination was made in accordance with generally accepted government auditing standards and, accordingly, included tests of the accounting records and other audit procedures that we considered necessary in the circumstances. Our audit covered October 1, 1999, through September 30, 2001.

The purpose of our audit was to assess whether the standards and operating procedures could be improved. In order to accomplish this purpose, we developed the following objectives to determine whether:

- The BOA process compares favorably to processes used by other cities and if processes or procedures used by these other entities should be considered for inclusion in the City's process.
- The current panel arrangement is efficient and effective in carrying out assigned duties.
- The process of appointing BOA members is efficient and effective.
- Current panel members believe that the BOA process is effective and efficient, and/or have identified alternative procedures, approaches, or improvements.
- The trend/patterns of BOA appeals pertain to certain Dallas Development Code section(s) or area(s) of the City.

## INTRODUCTION

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- The BOA adheres to the meetings, records, and rules section of the Dallas Development Code.

To achieve our audit objectives, we:

- Surveyed selected current and former BOA members, as well as other cities within the United States. (See Appendices A and B.)
- Examined attributes of various BOA member/case files and appeal applications.
- Interviewed numerous persons from various City departments that were involved in the BOA process.
- Examined selected case files.

### **Overall Conclusion**

We found that the efficiency and effectiveness of the BOA process, and related procedures and practices, should be improved.

### **Background**

The BOA is a quasi-judicial body that is charged with certain decision-making functions, which has been developed to uphold the meaning and spirit of the zoning and related ordinances as enacted by legislation. The BOA receives its powers from state statute (Chapter 211 of the Texas Local Government Code). The BOA receives its local authority from the City of Dallas through Chapters 51 and 51A of the Dallas Development Code, as amended. The actions of the BOA are presumed to be valid and final. The only recourse for an applicant is to appeal a BOA decision to the State District Court (SDC). An applicant appealing to the SDC has the burden of proving that the action of the BOA was arbitrary, capricious, or illegal.

Currently, the BOA has three panels. According to state law, “A Board of Adjustment shall consist of one or more panels of five members each to be appointed for terms of two years.” Thus, state law has determined the size of each panel, but has left the number of panels to the discretion of the governmental entity. Additionally, the City Code provides that the City Council may provide six alternate members. Alternates are generally assigned to specific panels; however, they may be assigned to other panels as requested. The two-year member terms end on September 1 of odd-numbered years; however, the members serve until their successors are appointed and qualified.

## INTRODUCTION

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The three panels cumulatively meet approximately thirty times a year. State law also requires “that each case before the Board of Adjustment must be heard by at least 75 percent of the members” (i.e., four members). The concurring vote of at least 75 percent of the authorized panel members is necessary to decide in favor of an applicant.

During our audit period, approximately 435 applications were submitted. The majority of the applications were for special exceptions and variances. We selectively examined twenty-two of those applications.

We sent questionnaires to eighteen U.S. cities and to twenty-one previous and current BOA panel members. The purpose of questionnaires sent to other cities was to determine whether the other cities had practices that should be considered for inclusion by the Dallas BOA. The purpose of surveying current and former BOA members was to obtain their perspectives regarding strengths and weaknesses, as well as subsequently determining whether the identified weaknesses had been, or needed to be, addressed. Various issues from these surveys are included in the *Opportunities for Improvement* section of this report.

## **MANAGEMENT'S ACCOMPLISHMENTS**

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In anticipation of this report, the management staff of the Planning and Development Department was asked to provide comments on procedural and operational changes and improvements. Their unedited comments are included below.

*The Board of Adjustment staff began a critical review of its procedures and practices during the 2001 fiscal year. As a result revised procedures, a revised calendar, and assessments of other areas within the Board of Adjustment have been implemented.*

*Staff has enhanced the briefing materials provided to the Board of Adjustment by utilizing PowerPoint presentations. This change allows staff to use digital photos and scanned images, rather than preparing film slides for the Board. The use of digital photos allows staff to receive additional information from applicants by e-mail. These attachments can be added into a power point presentation for that case.*

*PowerPoint allows staff to prepare and archive presentations in an electronic format rather than cataloging information in a hanging folder. It also enables staff to catalog all briefing cases in one system rather than continually changing overheads and slide carousels.*

*Legal advertisement and postage costs are now documented by month and hearing date.*

*Staff has requested a revision to existing hearing calendars to enable the Board to meet in (the) City Council Chamber for twenty-six of the proposed twenty-eight hearings for the next fiscal year. The use of venues outside of council chamber has raised concerns over the quality of the audio record. Testimony provided in these venues is difficult to record due to the limited number of microphones. The use of the council chamber ensures all testimony to be properly recorded and microphones for all Board members, staff, and applicants.*

*Changes to the Board calendar impact staff review time for pending cases. The time period to review a case by staff and prepare dockets for distribution has been shortened.*

*Staff has revised the Board of Adjustment's orientation manual and training program. It is designed to review all applicable standards for approval and samples from previous cases. The Board members who participated in the orientation during the last fiscal year provided positive feedback. Two orientations are planned for fiscal year 2001-2002.*

*The experiences from the last fiscal year have allowed staff to implement procedural changes for the 2001-2002 fiscal year. These improvements will allow the Board staff to consider broader policy changes for the upcoming year as well.*

## **OPPORTUNITIES FOR IMPROVEMENT**

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We identified certain policies, practices, and procedures that could be improved. Our audit was not designed or intended to be a detailed study of every relevant system, procedure, and transaction. Accordingly, the opportunities for improvement presented in this report may not be all-inclusive of areas where improvement may be needed.

### **1. BOA panels are often not fully appointed.**

A primary reason that BOA panels do not have a full complement of both members and alternates is that timely action is not taken to fill vacant member/alternate positions. We identified the following concerns regarding the appointing of BOA members and alternates in a timely manner:

- A. The Texas Local Government Code, Section 211.008 states, "A Board of Adjustment must consist of at least five members to be appointed for terms of two years. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the BOA."

Currently there are three panels; each panel is required by state law to be comprised of five members. A quorum is set at seventy-five percent of the authorized panel membership (APM). Thus, if only four of the members are appointed, all four (75% of the APM) are required to achieve a quorum. If only four of the APM are appointed or present, all four must vote in favor of a petitioner's request for it to be granted. If five members are present, one person can vote not to grant the petitioner's request, and the request can still be granted. Having fewer than five members present to hear an exception request reduces an applicant's potential of having the exception approved. It should be noted that an alternate member may replace a regular member. If only three members are present, the BOA cannot hear an applicant's request.

In fiscal year 2000-2001, there were thirteen hearings with only four members/alternates present. Additionally, one hearing was cancelled because only three members were present. Thus, of 30 total scheduled meetings for the fiscal year, 14 (47%) had fewer than five members/alternates present.

The City Secretary stated that if two or more panels had unfilled positions, a member from one panel could be permanently reassigned to another, and that such moves could be accomplished within four to five days after being requested. The City Secretary also stated that any approved available alternate could be used to fill a permanent panel position.

The Dallas City Code, Volume III, Chapter 51A, Part II, states, "There is hereby created the BOA which shall consist of 15 members who are residents of the city."

## **OPPORTUNITIES FOR IMPROVEMENT**

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Each City Council member shall appoint one member to the BOA. The City Secretary shall divide the BOA into panels of five members each.”

The BOA was created to serve the citizens of Dallas. If meetings are cancelled, or only four members are present, then there are very real questions regarding whether the citizens are being adequately served. To continue functioning effectively and efficiently, the BOA must be fully appointed. Canceling meetings increases the City’s cost to administer the BOA process because additional printing and mailing, public notice, and labor costs will be incurred.

A delay in appointing members may be caused by any of the following:

- The applicable Council member not being notified when a vacancy exists.
- The Council member not expediently appointing a member to the BOA.
- The City Secretary not promptly performing the appropriate background checks.
- The new appointee not being promptly notified.

- B. No single department has taken a lead role in monitoring and overseeing the BOA member appointment process. There are two groups involved in the process - the City Secretary and the City Council. Currently, only the City Secretary tracks the BOA candidate selection process. The City Secretary’s BOA Background Review form identifies the various background and related verification/data collection and assessment steps to be accomplished, as well as the name of the person who completed the step.

Appointment delays jeopardize filling all three panels. If a quorum is not present, the meeting must be re-scheduled and various related costs (e.g., printing, mailing, public notices) are re-incurred for those cases that were not heard. In addition, the calendar time to hear a case is extended. These problems reduce the level of service to citizens.

Each important process should have a responsible appointed entity to provide monitoring, oversight, and guidance and ensure program objectives are achieved.

- C. Current BOA member terms are not staggered. All BOA members are appointed soon after Council member elections (odd numbered years) and assume their positions on the following September 2. However, since all BOA member terms expire concurrently, there is a risk of an “experience void” if few (or no) BOA members are reappointed. In addition, having all BOA member terms expiring concurrently may place an increased burden on Council members to identify

## OPPORTUNITIES FOR IMPROVEMENT

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persons for potential appointment. This potential problem can be reasonably averted if BOA terms are staggered so that seven of the members' terms expire in one year and the other eight members' terms expire the following year. The authority for the current appointment guidelines is Chapter 51A, Part II of the Dallas City Code, which states, "Members serve for two-year terms ending on September 1 of odd-numbered years and shall serve until their successors are appointed and qualified."

**We recommend** that the Director of Planning and Development:

- A. Consider the following alternatives, which address the issue of board panels not being fully appointed:
- Evaluate whether the number of panels should be reduced and, if a reduction is considered appropriate, coordinate with the City Attorney's Office, the City Manager, and the City Council.
  - Request the City Attorney to develop a proposed change that places a time limit that a Council member has to submit names, and other needed information, for a BOA member appointment nominee. If an appointment is not subsequently finalized within the specified time frame (e.g., 30-60 days), the appointment is open (on a first come, first served basis) to the entire Council.
  - Coordinate with the City Secretary to promptly notify the Council, or individual members, of needed BOA appointments. Such notifications should include follow-ups as needed.
  - Provide the City Secretary with BOA member needs in a timely manner, and follow-up as needed to more fully ensure prompt reassignment of alternates among the panels.
- B. Coordinate with both the City Council and City Secretary to modify candidate-tracking checklists to include the name of the individual responsible for completing the step and develop time standards for each processing step. Each person completing a step should sign and date the particular checklist step. Checklists should be kept online to provide immediate access for all persons that have a need to know.
- C. Coordinate with the City Attorney's Office and City Council to propose revising the Dallas City Code to provide for staggered BOA member terms.

[Note – Also see Finding 6 for comments regarding the use of the City's web site for accepting applications for possible Council appointment(s) to the BOA.]

## OPPORTUNITIES FOR IMPROVEMENT

**Management’s Response:**

- A.    ?     Agree – partially implemented. It has been determined that it would be appropriate to recommend one panel of five with rotating members for eight months. Additional legal review is required.
- ?     Agree (with modifications). It is appropriate for the City Attorney, City Manager, and City Secretary’s Office to have this discussion with the City Council.
- ?     Agree – partially implemented. We are in the process of providing monthly reports on vacancies for the BOA to the City Council and City Secretary’s Office.
- ?     Agree (with modifications). Same as response above.
  
- B.    Agree (with modifications). The checklist should be initiated and coordinated by the City Secretary’s Office.
  
- C.    Agree – partially implemented. The department will work with the City Attorney’s Office and City Council to propose revising and amending the appropriate Dallas Code (i.e., 51A) to provide for staggered BOA member terms.

**2. BOA fees are not sufficient to cover program costs.**

The BOA process is not recouping its costs. Applications are the mechanisms used by petitioners for their requests for deviation to be initially considered. If a request cannot be granted without a hearing, it may then proceed to the hearing stage. Related fee and cost information for the 2001 fiscal year is provided in the following table.

<i>Description</i>	<i>Dollar Amount</i>	<i>Panel Hearings</i>	<i>Average Cost per Hearing</i>	<i>Applications</i>	<i>Average Cost per Application</i>
Total Fees Collected	\$175,105.00	29	\$6,038.00	208	\$841.85
Total Cost	\$480,500.77	29	\$16,568.99	208	\$2,310.09
<i>Net Deficit</i>	<i>-\$305,395.77</i>	<i>29</i>	<i>-\$10,530.99</i>	<i>208</i>	<i>-\$1,468.24</i>

Of 208 applications, 20 had related fees waived. The waived fees totaled \$18,790 (or 9.7% of total billable fees).

**OPPORTUNITIES FOR IMPROVEMENT**

We were able to compile the following cost table for 2000-2001.

<i>Cost Category</i>	<i>Dollar Amount</i>	<i>Panel Hearings</i>	<i>Average Cost per Hearing</i>	<i>Applications</i>	<i>Average Cost per Application</i>
Printing	\$446.02	29	\$15.38	208	\$2.14
Catering*	\$3,453.75	29	\$119.09	208	\$16.60
Staff Labor	\$360,000.00	29	\$12,413.79	208	\$1,730.77
Postage	\$4,802.00	29	\$165.59	208	\$23.09
Legal Notices	\$30,000.00	29	\$1,034.48	208	\$144.23
Consulting Fees **	\$81,799.00	29	\$2,820.66	208	\$393.26
<b>Totals</b>	<b>\$480,500.77</b>	<b>29</b>	<b>\$16,568.99</b>	<b>208</b>	<b>\$2,310.09</b>

\* Catering fees are not a core component expense of the BOA.

\*\* Consultants hired to review amortization issues related to business owners' recoupment of investment in business, or other related issues. These are primarily related to compliance cases. There were 12 compliance cases that contributed to this cost.

The above table represents costs incurred for all case types (e.g., variances, special exceptions, and compliance cases). These costs do not include employees that work part-time on compliance cases or that are from ancillary departments (e.g., water, code compliance).

The Planning and Development Department needs to further allocate cost data to each specific Board and Commission. As an example, legal advertisements are grouped together for the Landmark Commission, Planning Commission, and the BOA. If questions were asked regarding the costs of legal advertisements for a particular Board or Commission, the department would have to calculate the costs manually.

Currently, postponing a case (holdover) does not require an additional fee to be paid by the applicant. Many times cases are postponed because the City is waiting on a particular item (e.g., a site plan) that should have been previously submitted by the applicant. Additional costs (e.g., legal advertisements) are then incurred. Last fiscal year, additional legal advertisements for the BOA cost the City \$3,386. That money was not recouped. Any additional costs incurred by the City that are caused by an applicant (e.g., not providing data or other information to the City in a timely manner) should be recovered from the applicant.

When revenue fees do not fully offset related costs, all taxpayers must share in the cost, rather than being the sole responsibility of the applicant. Inadequate user fees decrease resources for other City purposes and needed services. Fee structures should support the full underlying costs of related goods/services provided.

## **OPPORTUNITIES FOR IMPROVEMENT**

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The strategic goals of the City, as shown in the Dallas 2000 Strategic Plan, state, “We will maintain sound financial management practices.”

The Planning and Development Department’s fees and related service costs have not been recently reviewed to determine whether fees should be increased.

**We recommend** that the Director of Planning and Development:

- Increase fees to a level that will fully offset all related costs.
- Review the circumstances/conditions by which fees are currently waived and revise as appropriate.
- Confer with the Controller’s Office to develop specific codes to aggregate costs by service type (e.g., all costs that are incurred for BOA applications and hearings).
- Require applicants to be charged for all additional fees if the applicant’s action or non-action caused the incurrence of those additional charges.

### **Management’s Response:**

Agree – implemented.

- There is a proposed 50% fee increase in FY 2002-03 budget for the BOA applications to offset all related costs and for additional fees when the applicant’s actions cause the incurrence of additional charges.
- The department is reviewing the circumstances and/or conditions for waiving fees. Staff recommends waiving fees only when there is an error created by the City staff and/or a financial hardship exists.
- We agree with the thrust of the recommendation to aggregate costs; however, we propose to develop the costs strictly associated with BOA applications and hearings internally (a department created spreadsheet).
- See first bullet.

### **3. The BOA application process can be more effective and time efficient**

Within the BOA Appeals Process, certain components can be eliminated and others can be made more efficient. The Building Official is the applicant’s first contact in the BOA process. This person explains/provides the building code standards and sets the hearing date. Currently, after the application is received from the Building Official’s Office, the Planning Division (at City Hall) reviews the Building Official’s report. They also subsequently contact the applicant by telephone, and once again explain the applicable Building Code Standards and provide the hearing date. This practice creates a duplication of effort.

## **OPPORTUNITIES FOR IMPROVEMENT**

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Additional process improvements can be made at the Building Inspection Office at the Jefferson Street location. Currently, the Building Official or designee accepts an application and later reviews it. If the application is not complete, the Building Official will contact the applicant to obtain the required information. To save time, the Building Official, or designee, should check the application immediately upon receipt to determine whether it has the required information. The current number of applications received annually is approximately 200. This number of applications does not appear to reasonably preclude an immediate initial review to identify incomplete information. Applications should not be recorded as having been received until all required information is provided. Immediately identifying incomplete applications may reduce current processing time and customer frustration.

Organizations should periodically review their operations for operational efficiency and effectiveness utilizing an objective, comprehensive process analysis. When an organization understands its business operations, it can make improvements to serve the public better. We found no documented evidence that Planning and Development had performed on-going formal periodic reviews of operations, activities, and processes for the BOA.

**We recommend** that the Director of Planning and Development periodically review operations to include a complete process analysis of operations as well as the operating enhancements shown above.

### **Management's Response:**

Agree – implemented. A new office of the City Manager has been proposed to eliminate duplication of efforts and to streamline the process.

#### **4. BOA members need an expanded training/orientation program.**

Current procedures do not reasonably ensure that each appointed BOA Committee member possesses adequate knowledge prior to assuming his/her BOA and panel responsibilities. There are no specific knowledge or BOA related experience requirements for BOA appointees. Some BOA members already have substantial knowledge concerning zoning issues, but may not be familiar with the technical terminology used and/or may not be familiar with the history concerning a specific zoning issue. Other BOA members may have very little knowledge concerning the subject area that the BOA will be involved in. Thus, it is incumbent upon the responsible department to provide a sufficiently comprehensive training program to ensure each applicable person has a minimum acceptable level of understanding within each relevant discipline.

## **OPPORTUNITIES FOR IMPROVEMENT**

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Audit surveys of both current and former BOA members identified perceived deficiencies in the following areas:

- General understanding of the BOA and the hearing process
- Reviews of prior cases and discussion of salient issues (case studies)
- Terminology (jargon) and “often used abbreviations” (Create reference manual for this section)
- Explanation of how cases are assigned to panels
- Evolution of changes over the years regarding certain sections of the code (e.g., changes in building codes relating to pawn shops and liquor stores)
- Review of applicable code sections
- Review of Robert’s Rules of Order
- Annual refresher courses

BOA members who don’t have needed technical knowledge or training may have difficulty reaching a logical conclusion. Lack of necessary knowledge could lead to adverse cost, quality, and time performance issues, which will negatively impact service delivery to citizens.

Thus, Planning and Development needs to provide a comprehensive training/orientation program for new BOA members. The Dallas Strategic Plan 2000 has a goal for customer service that strongly encourages the development of adequate training for responsible persons. Due to the specialized nature of the cases heard by the BOA, training/orientation must meet the general requirements of the position, and additional specialized training should be developed as warranted.

**We recommend** that the Director of Planning and Development expand the training/orientation program to include the elements noted above, as well as any specific training that may be required for individuals to understand and deal with specific cases heard.

### **Management’s Response:**

Agree – implemented. Annually the department conducts an orientation for all members and in the future we will conduct workshops for education and training from local APA Chapter members.

## **OPPORTUNITIES FOR IMPROVEMENT**

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### **5. Current and former BOA members raised concerns about readily available access to various professional City staff for BOA briefings and hearings.**

The BOA panels do not consistently have the external staff support needed to address issues raised during hearings. The BOA process relies heavily on the insight, experience, and expertise of various professionals within the City (e.g., engineers and other professionals external to the Planning and Development Department). Their input is essential in ensuring that significant issues are both identified and addressed. Professional guidance may be needed at any point within the briefing or hearing process. If such guidance, direction, or explanations are not available, the quality of BOA decisions may be adversely affected. Thus, the appropriate parties must be present or readily available on briefing/hearing days. It should be noted that Planning and Development staff is consistently present for hearings.

We surveyed twenty-one current and former BOA members. Four expressed concerns regarding not having readily available access to City staff (other than Planning and Development staff). If needed information/guidance is not available, BOA members may have to hold over cases or make uninformed decisions. BOA members and citizens may subsequently become frustrated with the appeal process due to delays and/or lack of informed decisions.

Prudent business practices require appropriate personnel be present when they are needed for BOA briefings and hearings. One of the values that the City strives for is to give its citizens the service quality that they deserve.

**We recommend** that the Director of Planning and Development, in coordination with the City Manager, ensure that all appropriate City professional representatives are present at briefings and hearings to answer questions and provide requested information.

#### **Management's Response:**

Agree – implemented. The department will schedule other professional staff from other departments to be present at all briefings and hearings to answer questions and provide requested information.

### **6. Planning and Development needs to better utilize the City's web site to inform citizens of the purposes of the BOA and the appeals process.**

Planning and Development's portion of the City of Dallas web site does not adequately provide Dallas citizens with sufficient information pertaining to the appeal process. Excluding the Code section presented, there is not more than one page that deals with the BOA. A brief description of the BOA is given along with the address and phone

## **OPPORTUNITIES FOR IMPROVEMENT**

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number. It explains how to file an application for a Code “special exception” or “variance” by contacting the Building Official’s Office. Excluding Code sections, other cities provide as much as 20 pages of BOA type information. Data provided by the other Cities includes a citizen’s guide containing general information, fee schedules, rules of procedure, applicable forms, and an annual report.

BOA staff currently contacts applicants by telephone to explain the Code applicable provisions and the hearing process, as well as inform them of the scheduled hearing dates. If the applicant is not contacted by telephone, BOA staff mails this information to the applicant. Planning and Development could put this information on the City’s Internet (or e-mail the information, if necessary). Thus, significant additional information could be provided to potential users without incurring additional mail and related labor costs.

The web site could be expanded to provide an online application for interested parties to apply for appointment as a BOA member. Since filling all BOA positions has been a historical challenge, having a pool of additional applicants may speed up the nomination process and fill currently unfilled positions. The City Secretary already has a general BOA application form on the City’s web site. Since a BOA application must go to the City Secretary’s Office for processing, the Planning web site could direct applicants to the City Secretary’s online application form. If an applicant’s submitted form warrants additional consideration, a release, with a wet signature, must be provided to the City Secretary. This release will give the City permission to conduct a required background check. The form requiring a wet signature can be downloaded by the applicant, signed, and mailed to the City Secretary.

Currently, the BOA hearing process may be adversely affected, and citizens will not be served as effectively if web-based hearing applications are not provided. An organization should maintain an adequate level of technological advancement and provide the best means possible to advertise its services.

**We recommend** that the Director of Planning and Development provide additional information on the City’s web site regarding the BOA hearing process and allow hearing petitioners to apply online. Further, the Director of Planning and Development should refer applicants to the BOA member application, in the City Secretary’s section of the City’s web site. Applicants applying for potential BOA appointment should be made aware that a City Council member must nominate them.

### **Management’s Response:**

Agree – partially implemented. The re-engineering of the new department will emphasize customer service and will assist with providing additional information on the web site. It will be a top priority and a future goal to allow for applicants to apply online.

## **OPPORTUNITIES FOR IMPROVEMENT**

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### **7. Planning and Development needs to develop meaningful and useful performance measures.**

Performance measures are designed to provide evaluation criteria for measuring planned or actual results of one or more functions, programs, or other activities within the entity. This type of data has not been consistently presented in budgets or financial statements. Performance measures are concerned with the results of the services governments deliver. Thus, they are intended to:

- Help provide a basis for assessing the efficiency and effectiveness of those services and determining whether the mission is being achieved.
- Define program/function components that are to be measured to determine whether objectives are achieved.
- Provide a basis to evaluate the efficiency and effectiveness of current resource allocation.
- Generate feedback.
- Focus on desired results.

The current BOA performance measures should be expanded in order to include all applicable areas of program performance. Comprehensive performance measures should be evaluated frequently and systematically to ensure efforts and resources are used as intended and achieve desired goals. The Dallas 2000 Strategic Plan encourages an improved performance measurement system.

Meaningful performance measures may include:

- Cost per hearing, application, and/or compliance/amortization
- Cost versus fee collected
- Discretionary waivers
- Non-discretionary waivers
- Cycle time by hearing type
- Hearing decisions appealed
- Number and percentage of “hold overs”
- Staff hours spent by case type
- Number of hearings where less than a full panel was present
- Number of hearings cancelled due to lack of a forum
- Customer satisfaction and perceived process fairness
- Percent of staff recommendations accepted and upheld (if appealed)

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## OPPORTUNITIES FOR IMPROVEMENT

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This listing is not intended to be all-inclusive, but representative of the type of performance measures that should be considered.

**We recommend** that the Director of Planning and Development implement a comprehensive performance measurement system to monitor the effectiveness and efficiency of the BOA.

**Management's Response:**

Agree – partially implemented. The current BOA performance measures will be expanded to include all applicable areas of program performance as identified in this report.

# APPENDIX A

**Planning and Development Audit  
Panel Questionnaire  
Audit from 10-1-99 to 4-30-01**

Item No.	1	2	3	4	5	6	7	8	9	10	11	12	13
How Many Days Prior to Meetings do you Receive your Board's Executive Information Prior to Board Meetings?	3 Days	5 Days	7 Days	9 Days	5 Days	3 Days	7 Days	5 Days	3 Days	5 Days	5 Days	7 Days	5 Days
Are Answers to Questions Asked at Board Meetings Adequate?	Yes	No - 1, 2	No - 1	Yes	Yes	Yes	No - 1	Yes	Yes	Yes	No - 1	Yes	Yes
Is Additional Training, Experience, Staff Resources Adequate?	No - 2	No - 4	Yes	No - 2, 4	Yes	No - 3	No - 3	No - 3, 4	No - 3, 4	No - 3, 4	No - 3, 4	Yes	Yes
Are Answers to Questions Asked at Board Meetings Adequate?	Yes	No - 2	No - 2	Yes	Yes	Yes	Yes	No - 2	No - 2	Yes	Yes	Yes	Yes
Is There Adequate Legal Counsel?	Yes	No - 1, 4	Yes	Yes	No - 1, 4	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are Board Meetings Conducted in a Professional Manner?	Yes	No - 8	Yes	Yes	No - 8	Yes	Yes	Yes	Yes	Yes	No - 8	Yes	Yes
What Can Be Done to Improve the Board's Effectiveness?	5	6, 8, 20, 27	7		4, 8			8		8	8	10	
Do You Have Any Issues About How the Board Operates?	No	Yes - 8, 20, 27	Yes - 11	Yes - 12	No	No	No	No	No	Yes - 8	Yes - 13, 14	No	No
If Asked, Who do you contact?	15	15	15	15	16	15	15	15	15	15	15	15	15
What is the Primary Reason for Nonattendance?	16	16					16		16				16
What is the Main Cause for a Lack of Interest?	16	16	17	16	16		16	17		17	17		16
What are the Weaknesses in the Process?	20, 31		21	8	4, 8		16			11, 20	2		
What are the Strengths in the Process?	22			22	22		24			22			
Recommendations to Improve		20	21	8	20					8			
Is the Board Process Adequately Monitored by Dallas City Council and staff?	Yes	Yes	No - 20, 23	Yes	Yes	Yes	Yes - 19	Yes	Yes	Yes	Yes	Yes - 11, 20	
Do You Understand How Cases Are Assigned to Panels?	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	Yes
Do You Have Additional Comments?	No	Yes - 25, 27	No	Yes - 28	No	No	No	Yes - 17	No	Yes - 22	Yes - 27	Yes - 28	No

For All Numbered Entries, See The Attached "Footnotes"

## APPENDIX A

### Planning and Development Audit Panel Questionnaire Footnotes Audit From 10/1/99 to 9/30/01

- 1 Inadequate/Not Timely Department Responses/Information
- 2 Needed Personnel Not Available/Not Consistently Available
- 3 Additional Technical/Professional Training or Information Needed
- 4 Additional Staff Support Needed
- 5 Provide for Physical Viewing of Premises
- 6 Receive Docket Earlier
- 7 Allow Board Members to Put Items on Agenda
- 8 More Order, Control and Adherence to Procedures/Guidelines During Meetings
- 9 Need Five Members Appointed to Each Panel at All Times
- 10 Have Copies of Hearing Letters Ahead of Time
- 11 Better Explanation to Applicants of Board Meeting Process and Decisions
- 12 Reduced Casé Load
- 13 Granting Variances Without Strict Regard For Standards
- 14 Fee Waivers Should Be Allowed If City Staff Is At Fault
- 15 Board Secretary or Administrator
- 16 Personal/Business Conflict
- 17 Insufficient Regular and Alternate Members Appointed to Each of the Various Panels
- 18 Lack of Commitment
- 19 Community Not Adequately Informed About BOA Process
- 20 Perceived Staff Bias/More Unbiased Presentations
- 21 Applicants Do Not Timely Notify Neighborhood Associations
- 22 Perceived Conflict of Interest
- 23 Staff Capability
- 24 Ability to Receive a Fair Hearing
- 25 Expanded Annual Report Statistics
- 26 Attendance/Punctuality/Commitment Issues
- 27 Concerns Regarding Uninformed Board Members
- 28 Board Should be Only One Panel
- 29 Enjoyed Working For The Board
- 30 Building Code Exceptions/Variances Too Easy To Get
- 31 Need For Improved City Presentation's at Board Meeting
- 32 Inadequate/Not Timely Information Provided By Applicant
- 33 Perspective of City Should be to "Deny" Applicant Request, and Make Applicant Fully Prove Position

## APPENDIX B

### Planning and Development Audit Cities Questionnaire Audit from 10-1-99 to 9-30-01

Item No.	1	2	3	4	5	6	7	8	9	10	11	12	13
City	Indianapolis	Fort Worth	Portland	Milwaukee	San Jose	San Diego	Seattle	Denver	Austin	Baltimore	Houston	El Paso	Dallas
<b>Creation</b>	Statute	City Code	City Code	Statute	Statute, City Code	City Code		Charter	Statute	State Statute and City Code		State Statute and City Code	State Statute and City Code
<b>Members</b>	15	9	7	5	7	5		5	5	5		9	15
<b>Approved By</b>	Council, Other	Council	Council	Council	Council	Council		Mayor	Council	Mayor		City Council	City Council
<b>Council Member Select Regular</b>	No	No	No	No		No		No	No	No		Yes	Yes
<b>Full Council Select Alternate</b>	Yes	Yes	N/A	No		No		No	Yes	No		No	Yes
<b>How Many Panels</b>	Three	One	One	One	One	One		One	One	One		One	Three
<b>Members to Each Panel</b>	5	N/A	N/A	N/A	N/A	N/A		N/A	N/A	N/A		N/A	5
<b>Term</b>	1 Year	2 Years	2 Years	3 Years	4 Years	2 Years		5 Years	2 Years	4 Years		2 Years	2 Years
<b>More than 1 Term</b>	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes		Yes	Yes
<b>Staggered Terms</b>	No	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	No
<b>Unexpired Term</b>	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	Yes
<b>Alternate Members</b>	Yes	Yes	No	Yes		Yes		Yes	Yes	No		Yes	Yes
<b>No. of Alternates</b>	Rotate Board Members	2	N/A	2		1		2	4	N/A		9	6
<b>Alternate Approval</b>	Council, Other	Council	N/A	Council		Council		Mayor	Council	N/A		Council	Council
<b>Alternate Vacancies</b>	Yes	Yes	N/A	Yes		Yes		Yes	Yes	No		Yes	Yes
<b>Cases Assigned</b>	Staff	Submission	Appeal Type	N/A		Appeal Type		Staff	Staff	Staff Executive Director		No Answer	Staff
<b>Case Dismissed</b>	New Board/Panel	Same Board/Panel	New Board/Panel	Same Board/Panel		Same Board/Panel		Same Board	Same Board	N/A		Same Board	Same Panel
<b>Average Cases per Month</b>	35	25	5	50	250	1		35	22	50		12	20
<b>Consistent Decisions</b>	Yes	N/A	Yes	N/A		N/A		N/A	Yes	N/A		Yes	Yes
<b>% to Hear</b>	Majority 60%	7 out of 9	4 out of 7	60%		60%		60%	80%	80%		9	75%
<b>% to Decide</b>	Majority 60%	7 out of 9	Majority	80%		60%		80%	80%	80% 4 out of 5, or if only 4 members present 3 out of 4		77%, 7 out of 9	75%
<b>P1*</b>	Yes	Yes	Yes	Yes		No		Yes	Yes	Yes		Yes	Yes
<b>P2</b>	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	Yes
<b>P3</b>	No	No	No	No		No		No	N/A	No		No	Yes
<b>P4</b>	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	Yes
<b>P5</b>	Yes	Yes	No	Yes		No		No	N/A	No		No	Yes
<b>P6</b>	Yes	No	No	No		No		Yes	No	Yes		No	Yes
<b>P7</b>	Yes	Yes	No	No		No		Yes	N/A	Yes		No	Yes
<b>P8</b>	Yes	No	No	No		No		No	N/A	Yes		No	Yes
<b>P9</b>	No	No	No	No		No		No	No	No		No	Yes
<b>P10</b>	Yes	No	No	No		No		No	N/A	Yes		No	Yes
<b>Open Meetings</b>	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	Yes
<b>Public Information Act Board's Decision Final</b>	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes		Yes	Yes
<b>Average Time</b>	30 Days	30 Days	60 days if appeal is involved	36.4 Days		45 Days		90 Days	4 Days	4 to 6 Weeks		15 days	60 days

## APPENDIX B

### Planning and Development Audit Cities Questionnaire Audit from 10-1-99 to 9-30-01 Continued

Item No.	1	2	3	4	5	6	7	8	9	10	11	12	13
City	Indianapolis	Fort Worth	Portland	Milwaukee	San Jose	San Diego	Seattle	Denver	Austin	Baltimore	Houston	El Paso	Dallas
<b>Average Cost</b>	\$275	\$300	\$250	Unknown		\$850			\$360	Unknown		\$270	\$2,310
<b>Components of Cost</b>	Labor, Notices, Printing, Mailing, Stenographer	Labor, Public Notices, Printing and Mailing Costs	State Law Regulations	Not Answered		Labor; Public Notices, Responding to citizen inquiries and participation at the BZA Hearing			None Given	Unknown		All of the mentioned	Printing, Catering**, Staff Labor, Postage, Legal Notice, Consulting Fees
<b>Public Notice</b>	\$300	\$100	\$300	Unknown		\$30.00		None Given	Varies	\$50.00		None Given	\$1,000

\* For all "P" entries, see the attached "Powers and Duties"

\*\* Catering fees are not a core component expense of the Board of Adjustment

## APPENDIX B

### Planning and Development Audit Powers and Duties Audit from 10/1/99 to 9/30/01

Does your "Board" have the following powers and duties?  
(Please write yes or no after the question)

- P1. To hear and decide appeals from decisions of administrative officials made in the enforcement of the zoning ordinance of the city.
- P2. To hear and decide special exceptions.
- P3. To require discontinuation of a nonconforming use under a plan whereby the owner's actual investment can be recouped within a definite time period.
- P4. To grant variances that will not be contrary to the public interest. The variance must be necessary to permit development of a parcel of land that has a restrictive area, shape or slope that cannot be developed like other parcels of land with the same zoning classification. A variance may not be granted to relieve self-created hardships or for financial reasons.
- P5. To interpret the intent of the zoning district map when discrepancies exist and when the rules set forth in the zoning district boundary regulations do not apply.
- P6. To hear and decide requests for change of occupancy of a nonconforming use to another nonconforming use.
- P7. To hear and decide requests for the enlargement of a nonconforming use.
- P8. To hear and decide requests for reconstruction of a nonconforming structure on the land.
- P9. To require the vacation and demolition of a nonconforming structure that is determined to be obsolete, dangerous, dilapidated, or substandard.
- P10. To consider a request of any use that is a nonconforming use because of its noncompliance with the environmental performance standards.