



INSPECTOR GENERAL REPORT

2010-07-0187

August 19, 2010

I-69 CORRIDOR PROPERTY OWNERSHIP

Inspector General Staff Attorney Todd Shumaker, after an investigation by Special Agent Mike Mischler, reports as follows:

On July 29, 2010, a confidential reporting party (RP1)¹ contacted the Office of Inspector General (OIG) regarding the ownership of property along the I-69 Corridor in Daviess County (Corridor) by Indiana Department of Transportation (INDOT) employee Troy Woodruff (Woodruff) and his wife. RP indicated that it had been reported to him that Woodruff, his wife, Melissa (potentially in her maiden name) and a contractor owned parcels of land along the Corridor that were involved in the I-69 expansion project (Project). RP also indicated there were allegations that Woodruff had hired his mother to work for him at INDOT.

The OIG is authorized to conduct investigations of fraud, waste, abuse, mismanagement, and misconduct in state government. IC 4-2-7-3(2). OIG Special Agent Mike Mischler was assigned and began an investigation into potential ethics and criminal violations.

¹ The RPs' identities have been redacted to protect their confidentiality under IC 4-2-7-8.

I

Special Agent Mischler interviewed another witness (RP2) who had originally contacted RP1. RP2 indicated it had been brought to his attention that several parcels of property along the Corridor were owned by “Woodruff,” and there was speculation those parcels were purchased by Woodruff. RP2 noted further that property along the Corridor was owned by another INDOT employee (Other INDOT Employee). Finally, RP2 commented that both Woodruff’s and the Other INDOT Employee’s wives may have used their maiden names to purchase additional property along the Corridor.

Special Agent Mischler researched the ownership of land in Daviess County and found 33 acres (Property) associated with Woodruff, his wife Melissa, and his family (collectively, the Woodruffs), including fifteen parcels along the Corridor.² On April 6, 2010, the Woodruffs transferred 2.97 acres to the State of Indiana for the price of \$13,328 for use in the Project.

Special Agent Mischler discovered further that the Property had been purchased in 2007 from an out-of-state owner who had inherited it in 2005 from her aunt. Special Agent Mischler learned from the former owner’s daughter that the aunt had requested that the woman first offer the Property to Woodruff’s father in the event she decided to sell it. The aunt indicated that Woodruff’s father had farmed the land for many years, and she thought very highly of him. Consistent with her aunt’s wishes, the woman offered the Property for sale to

² Special Agent Mischler’s research returned no results for property ownership along the Corridor in the name of the Other INDOT Employee or the maiden names of the Other INDOT Employee’s or Troy Woodruff’s wives.

Woodruff's father in 2007, and the Woodruffs opted to purchase it.

II

Potential Ethics Violations

According to State employment records, Woodruff served as a member of the Indiana House of Representatives from 2004-2006 but was not hired to work for the executive or administrative branches of Indiana government until 2008. As a result, he would not have qualified as an "employee" until 2008 and would not have been subject to the Code of Ethics (Code) at the time the Property was purchased in 2007. *See* IC 4-2-6-1.

Excess compensation for sale or lease, IC 4-2-6-7

As a state employee in 2010 when the Property was sold, Woodruff would have been bound by the Code, including its provision on receiving excess compensation for the sale or lease of property. *See* IC 4-2-6-7. Pursuant to this rule, a state employee is prohibited from receiving compensation: (a) for the sale or lease of any property which substantially exceeds that which the employee would charge in the ordinary course of business, or (b) from any person whom the employee knows or should know has a business relationship with the agency in which the employee holds a position.

The warranty deeds (Deeds) for each of the parcels the Woodruffs transferred to the State of Indiana indicate the Property was purchased by the State of Indiana. The State of Indiana would not qualify as a person with a business relationship with INDOT under (b) above. Therefore, IC 4-2-6-7 would

not apply to the sale of the Property by the Woodruffs in 2010.

Conflicts of interest; contracts, 42 IAC 1-5-7 (IC 4-2-6-10.5)

In addition to the rule on the sale or lease of property, the ethics rule on “Conflicts of Interest; Contracts” may also have been implicated in the sale of the Property by the Woodruffs. *See* IC 4-2-6-10.5. This rule prohibits a state employee from knowingly have a financial interest in a contract made by an agency, subject to certain exceptions.

The Deeds transferring the Property to the State of Indiana do not appear to be contracts as contemplated by IC 4-2-6-10.5 and would not be subject to the prohibitions in this rule.³

Nepotism, IC 4-15-7-1

State employment records indicate Woodruff’s mother, Carolyn Woodruff, was hired to work in the INDOT office in Vincennes in April 2010. Woodruff served as INDOT’s Vincennes District Deputy Commissioner from September 2009 to August 2010.

The ethics rule on nepotism prohibits a mother from being placed in a direct supervisory-subordinate relationship with her son. The nepotism rule also prohibits a mother from holding a position in any state office, department, or

³ IC 4-13-2-14.1 requires all state contracts to be signed by the vendor and agency and be approved by representatives the Indiana Department of Administration (IDOA), the State Budget Agency (Budget), and the Office of the Attorney General. The warranty deeds used to transfer the Property to the State were signed only by the Woodruffs and two Deputy Attorneys General. That the State forewent signatures by IDOA and Budget in approving the Deeds supports the conclusion that it also did not view these Deeds to be contracts.

institution if her son serves as the head of that state office, department, or institution.

According to human resource records, Carolyn reports to Howard Geck, not Woodruff, and she is not in a direct supervisory-subordinate relationship with her son. In addition, although Woodruff was serving as the INDOT Vincennes District Deputy Commissioner at the time Carolyn was hired, he was not the head of INDOT as required for this rule to apply. Based on this information, it does not appear as though Carolyn's hire at the INDOT Vincennes district was in violation of the rule on nepotism.

III

Criminal Violations

Official misconduct, IC 35-44-1-2

As both a member of the Indiana House of Representatives from 2004-2006 and an employee of the executive branch from 2008 to present, Woodruff qualified as a "public servant." *See* IC 35-41-1-24. As a public servant, he would also have been subject to the prohibitions in the criminal rule against Official Misconduct, namely that he could not knowingly or intentionally acquire, or divest himself of, a pecuniary interest in any property based on information obtained by virtue of his office that official action that was not made public was being contemplated. *See* IC 35-44-1-2. Under this rule, it could have been a criminal violation for Woodruff to purchase or sell the Property if it was based on information on the Project he had obtained by virtue of his positions in the

legislative and executive branches of state government of contemplated official action that had not yet been made available to the public.

According to Special Agent Mischler's findings, the Property was purchased by the Woodruffs in 2007. The I-69 corridor connecting Evansville to Indianapolis via Oakland City, Washington, Crane Naval Surface Warfare Center, Bloomington, and Martinsville was approved in March of 2004. *See: U.S. Department of Transportation Federal Highway Administration, Tier 1 Record of Decision: I-69 Evansville to Indianapolis, Indiana (2004)*. By the time the Woodruffs purchased the Property, its inclusion in the Corridor had already been public for three years. Consequently, any information related to official action on the Project would already have been made public, and the provision in the rule against Official Misconduct would no longer be implicated.

Conclusion

Special Agent Mischler's investigation did not uncover any evidence to support RP1's initial allegations of ethics or criminal violations by Woodruff. As a result, this case will be suspended in order to pursue other pending investigations. Should additional evidence be brought forward, this case may be evaluated for further action. At this time and for these reasons, this case is closed.

Dated this 19th day of August, 2010.

APPROVED BY:



David O. Thomas, Inspector General