

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

v.

DOMINICK OWENS

CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about July 20, 2006, in Chicago, Illinois, in the Northern District of Illinois, defendant,

being an agent of the City of Chicago, corruptly solicited and demanded for the benefit of any person, and accepted and agreed to accept anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction or series of transactions of the City of Chicago, involving anything of value of \$5,000 or more, the City of Chicago being a local government that received in excess of \$10,000 in federal funding in a twelve-month period from July 21, 2005, through July 20, 2006.

in violation of Title 18, United States Code, Section 666(a)(1)(B).

I further state that I am a Special Agent, Federal Bureau of Investigation, and that this complaint is based on the following facts:

Please see attached affidavit.

Continued on the attached sheet and made a part hereof: X Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

September 21, 2009 Date

Chicago, Illinois at City and State

NAN R. NOLAN, Magistrate Judge Name & Title of Judicial Officer

Signature of Judicial Officer

STATE OF ILLINOIS)
)
COUNTY OF COOK)

AFFIDAVIT

Anita A. Stamat, Special Agent of the Federal Bureau of Investigation (FBI), Chicago, Illinois, being duly sworn, deposes and states as follows:

I. Background of Affiant

1. I am a Special Agent with the FBI and I have been employed by the FBI as a special agent for over 17 years. I am currently assigned to a public corruption squad in the Chicago Division where I investigate criminal violations by federal, state and local public officials. During my time as an FBI agent, I have received training and participated in all normal methods of investigation, including, but not limited to, visual and electronic surveillance, the questioning of witnesses and the use of informants, and undercover operations. I have also received training in the enforcement of laws concerning, among other things, public corruption and white collar crime.

II. Purpose of Affidavit

2. This affidavit is made for the limited purpose of establishing probable cause in support of a criminal complaint charging DOMINICK OWENS with a violation of Title 18, United States Code, Section 666(a)(1)(B), in that on or about July 20, 2006, OWENS, being an agent of the City of Chicago, corruptly solicited and demanded for the benefit of any person, and accepted and agreed to accept anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction or series of transactions of the City of Chicago, involving anything of value of \$5,000 or more, the City of Chicago being a local government that received in excess of \$10,000 in federal funding in a twelve-month period from July 21, 2005, through July 20, 2006.

3. In 2006, Owens worked as a City of Chicago inspector in the Department of Zoning. As more fully described below, OWENS accepted a cash bribe from a cooperating witness (CW2) in exchange for Owens providing Certificates of Occupancy for two properties in Chicago. Specifically, on July 20, 2006, OWENS accepted a \$600 cash bribe from CW2 in exchange for providing Certificates of Occupancy for properties on West 37th Place and North Wolcott Street.

4. This affidavit is based upon my personal knowledge obtained from my personal observation, interviews of witnesses, review of documents, reports, and information received from other law enforcement agents and investigators. Because this affidavit is made for the limited purpose of establishing probable cause, I have set forth only the facts that I believe are sufficient to establish probable cause that OWENS has committed a violation of 18 U.S.C. § 666. Where statements of others are set forth, they are in summary and in part, and are not verbatim.¹

III. EXPLANATION OF THE BUILDING PERMIT PROCESS AND CITY DEPARTMENTS

5. The process for issuing building permits and monitoring construction projects is governed by several departments within the City of Chicago, including the Department of Zoning (“Zoning”), the Department of Construction and Permits (“DCAP”), the Department of Buildings (“Buildings”) and the Department of Administrative Hearings (“AH”). The principal role of Zoning

¹ Throughout this Affidavit, I describe various conversations that were consensually recorded. These descriptions often include in brackets my understanding of what is being said during such conversations. This understanding and interpretation of the conversations is based on (i) the contents and context of the conversations, (ii) my experience as a law enforcement officer and the experience of other law enforcement officers in this investigation, including our experience listening to the conversations as a whole, and (iii) the investigation to date, including information obtained from CW2 and others. All times listed are approximate. The summaries of the recorded conversations set forth in this Affidavit are based on draft transcriptions. Finally, the summaries below do not include all potentially criminal consensually recorded conversations, or all statements or topics covered during the course of the conversations.

is to enforce Chicago's Zoning Ordinance, to implement the city's land use policies and to maintain and update the city's official zoning maps. Developers seeking to obtain a building permit for new construction and renovation projects which require architecture plans receive an initial review of their architectural plans in Zoning to assure that the project conforms to the official zoning and land use policies of the City of Chicago.

6. Zoning reviews the survey plats, parking lot layouts and site plans to ensure that projects conform to the Zoning Ordinance. When a proposed development is not in compliance with the Zoning Ordinance or permitted use, a developer has the option of seeking an administrative adjustment or a zoning variance. The administrative adjustment process is a streamlined procedure for minor modifications of selected zoning standards. The zoning variance procedures involve review and approval of the requested changes by the Zoning Board of Appeals. Zoning is also responsible for administering the landscape ordinance within the zoning code which governs landscaping of all business, commercial and large residential projects. In addition, Zoning is responsible for issuing Certificates of Occupancy (a certificate from the City certifying that a structure is fit for human habitation) for construction projects containing between one to three dwelling units and for issuing Zoning Compliance Certificates (a certificate from the City certifying that a structure meets the applicable zoning requirements) for the occupancy, use, or change of use of any property in the city. Projects receive an initial review in Zoning by a zoning plan examiner ("ZPE"). On-site investigation of projects to ensure compliance with the Zoning Ordinance, including the landscape ordinance, and Certificate of Occupancy inspections are performed by zoning inspectors.

7. Contractors, developers, and homeowners may hire a permit expediter to facilitate the construction permit application process. The services performed by a permit expediter include, among other things: completing construction permit application forms; collecting and submitting relevant documents to DCAP and Zoning; waiting in line at City Hall for plan reviews; scheduling building inspections; meeting with architects, contractors, developers, homeowners, City of Chicago inspectors and other City of Chicago officials; resolving building code violations; and obtaining Certificates of Occupancy.

8. Obtaining timely reviews, approvals, and permits is important to developers. Waiting a lengthy period of time for a review, failing to pass an inspection to obtain a permit, or the issuance of a stop work order can have significant financial consequences for developers. These circumstances can preclude developers from starting or completing the work that needs to be done on a project (thereby lengthening the period of time for a project, which may add costs or at least delay the time at which a developer can recoup capital tied up in a project), or require developers to do additional work on a project (thereby increasing the cost of the project). For example, a Certificate of Occupancy is significant from a financial standpoint for the developer because typically a bank will require the Certificate of Occupancy before agreeing to lend money to a buyer for the purchase of the property. Thus, until the Certificate of Occupancy is issued, a developer is unable to sell the property or units in the property and recoup capital put into the project. According to the City of Chicago Zoning Ordinance, the City does not charge a fee for an initial Certificate of Occupancy; any subsequent re-inspections cost \$100. As described in detail below, OWENS accepted bribe payments in exchange for providing Certificates of Occupancy for four properties.

IV. THE INVESTIGATION

9. The City of Chicago Inspector General's Office ("IG"), the United States Postal Inspection Service ("USPIS"), and the Federal Bureau of Investigation ("FBI") have been investigating the payments of bribes by developers to City of Chicago officials in exchange for favorable treatment pertaining to building projects.

A. Information Obtained from CW2 and Bribes Paid to Owens

10. In approximately June 2006, an expediter ("CW2") agreed to cooperate with law enforcement.² CW2 formerly owned a building permit expediting company in Chicago and worked as an expediter. CW2 has provided historical information and has, at the direction of law enforcement, made cash bribe payments to OWENS, as set forth below.

11. CW2 admitted to agents that he/she paid cash bribes to OWENS, whom CW2 identified as a City of Chicago zoning inspector, in return for the expeditious issuance of certificates of occupancy. CW2 explained that upon the completion of a new-construction single-family residence, he/she received requests from certain builders/owners to obtain a certificate of occupancy so that the builder/owner could close on the sale of the property. CW2 related that the City of Chicago generally does not send out inspectors for residences of three units or less, but in CW2's experience, a builder who has deviated from the approved plans is often nervous that an inspector will drop in and determine that a deviation has been made, which would delay the closing and

² CW2 has been charged and has pleaded guilty to making false statements to a federal agent pertaining to the paying of a bribe to a DCAP employee, in violation of 18 U.S.C. § 1001(a)(2). CW2 agreed in a written plea agreement to cooperate with the government. At the time of CW2's sentencing, on February 1, 2008, the government moved for an unspecified reduction in CW2's sentence pursuant to USSG § 5K1.1. CW2 was sentenced to a term of 18 months probation. CW2 has no prior convictions. Although CW2 previously lied to agents, CW2's information is believed to be reliable because, as set forth herein, it has been corroborated by recorded conversations.

potentially result in expensive additional work. CW2 said that certain builders in these situations have approached CW2 to obtain certificates of occupancy. These builders were willing to pay in order to obtain the certificates expeditiously, as well as to avoid the possibility of an inspector coming to the building.

12. CW2 admitted that from in or about the beginning of 2005 to in or about June 2006, CW2 paid over \$20,000 to OWENS in return for certificates of occupancy for many single-family new construction projects and several multi-unit new construction projects.

13. CW2 further stated that in or about the beginning of 2005, CW2 was present at the site of a recently completed new construction single-family residence for the purpose of obtaining a certificate of occupancy for the builder/owner. OWENS showed up at the site in his role as a zoning inspector. According to CW2, Owens told CW2 that he charges \$300 for certificates of occupancy for new single-family residences and more for multi-unit buildings. OWENS stated that he would issue the certificate after receiving the money. CW2 advised the builder/owner of OWENS's demand and the builder/owner agreed to pay. CW2 obtained the \$300 from the builder/owner and passed it on to OWENS, at which time OWENS furnished the certificate of occupancy.

14. On Monday, July 10, 2006, at approximately 1:46 p.m., CW2, who was acting at the direction of law enforcement, made a recorded telephone call to OWENS. I have reviewed the recording of this conversation. During the conversation, CW2 and OWENS discussed the certificates of occupancy for properties on South Wallace and North Wolcott in Chicago. Specifically, CW2 said, "I got two C of O's." OWENS responded, "Okay," and CW2 gave the Wallace and Wolcott addresses. OWENS asked if they are "single families," and if CW2 wanted him to put them in for inspection. CW2 confirmed that they were single family residences and stated

that the closing for one of the residences was the following Wednesday morning. OWENS responded, "See if we can't get somebody up there tomorrow morning."

15. According to a City of Chicago Service Request Summary Report, on July 10, 2006, at approximately 1:56 p.m., a request for a certificate of occupancy inspection for the Wolcott and Wallace properties was entered into the system by OWENS. The same report revealed that on July 10, 2006 at approximately 2:08 p.m., OWENS closed out the Wallace and Wolcott requests and listed them as "completed."

16. On Monday, July 10, 2006, at approximately 7:30 p.m., CW2 received a telephone call from OWENS. CW2 let the call go to his/her voice mail. OWENS left a message asking CW2 to call him back. At approximately 8:00 p.m., CW2, who was acting at the direction of law enforcement, made a recorded telephone call to OWENS. The call went to voice mail, and CW2 left a message for OWENS to call him back. At approximately 8:20 p.m., CW2 received a telephone call from OWENS. CW2 let the call go to his/her voice mail. At approximately 8:28 p.m., CW2, who was acting at the direction of law enforcement, attempted to make a recorded telephone call to OWENS via a 3-way connection. CW2 and OWENS had a conversation, but the conversation was not recorded insofar as CW2 inadvertently failed to join the federal agent into the conversation. CW2 was interviewed immediately following the conversation. CW2 advised that he/she had a one-to-two-minute conversation with OWENS wherein OWENS stated that he had the certificate of occupancies that CW2 requested. CW2 and OWENS discussed their schedules the following day and agreed to talk after lunch in order to arrange to meet.

17. On Tuesday, July 11, 2006, CW2, who was acting at the direction of law enforcement, had a face-to-face meeting with OWENS on Higgins Avenue in the area of OWENS's residence for

the purpose of paying a \$600 cash bribe to OWENS in return for obtaining two certificates of occupancy. This meeting was recorded and surveilled by agents, and I have reviewed the recording. Prior to the meeting with OWENS, CW2 and his/her vehicle were searched by agents for the presence of cash and other contraband and none was found. Agents then provided CW2 with \$600 and fitted him/her with an audio recording device.

18. CW2 pulled up behind OWENS's car, which was parked on Higgins Avenue, and got out of his/her car. CW2 then spoke with OWENS while standing on the driver's side of OWENS's car and leaning into the window. CW2 handed OWENS \$600 in pre-recorded currency and stated, "six here." CW2 told agents that OWENS took the cash and placed it on his lap. OWENS then handed CW2 two certificates of occupancy, one for the property on Wolcott and one for the property on Wallace.

19. Immediately after the meeting with OWENS, CW2 met with agents and provided them with the certificates of occupancy that CW2 received from OWENS. CW2 and his/her vehicle were then searched again and found to be free of any cash or other contraband.

20. On Wednesday, July 19, 2006, at approximately 12:54 p.m., CW2, who was acting at the direction of law enforcement, attempted to make a recorded call to OWENS. The call was answered by OWENS's voice mail. CW stated that he/she needed two certificates of occupancy, one of which he/she needed for Friday morning.

21. On Wednesday, July 19, 2006, at approximately 4:11 p.m., CW2, who was acting at the direction of law enforcement, attempted to make a recorded call to OWENS. The call was answered by OWENS's voice mail. CW left a message that he/she was returning OWENS's call and gave him addresses for the C of Os of a property on West 37th Place and a property on North Wolcott ("the

second Wolcott property”). CW2 asked that OWENS call him/her back tomorrow and let CW2 know what time OWENS would have the C of Os.

22. On Thursday, July 20, 2006, at approximately 12:35 p.m., CW2 made a recorded call to OWENS. CW2 asked, “You didn’t get those COs yet, did you?” OWENS responded, “They should be ready later on today. They’re uh, they’re getting inspected this morning and they should be ready later today.”

23. On Thursday, July 20, 2006, at approximately 4:27 p.m., CW2 received a call from OWENS at which time OWENS advised that he had the C of Os. CW2 said he/she could come by OWENS’s residence to pick them up. This call was consensually recorded, and I have reviewed the recording.

24. On Thursday, July 20, 2006, at approximately 4:40 p.m., CW2, who was acting at the direction of law enforcement, had a face-to-face meeting with OWENS in front of OWENS’s residence for the purpose of paying a \$600 cash bribe to OWENS in return for obtaining two certificates of occupancy. This meeting was recorded and surveilled, and CW2 was interviewed following the meeting. I have reviewed the recording. Prior to the meeting, CW2 and his/her vehicle were searched by agents for the presence of cash and other contraband and none was found. Agents then provided CW2 with \$600 and fitted him/her with an audio recording device.

25. CW2 pulled into OWENS’s driveway. CW2 told agents after the meeting that when he/she pulled into OWENS’s driveway, he/she observed OWENS standing inside his house looking out of his front window. OWENS saw CW2 and gestured with his index fingers to wait a minute. About a minute and a half later, OWENS exited his house and walked over to his vehicle and pulled out a yellow envelope which CW2 later determined contained the two C of Os that CW2 requested.

OWENS then approached CW2, who was sitting inside his/her vehicle. OWENS handed the envelope containing the C of Os to CW2. OWENS stated, "Here you go." CW2 replied, "Thanks, man." CW2 told agents that he/she picked up the \$600 from the cupholder located in the console of CW2's car. CW2 started to hand the \$600 to OWENS and stated, "There's six there." OWENS responded, "Okay, that's fine," and gestured to CW2 to leave the money in the door handle of the driver's side door. At that time, OWENS also turned his head and looked around. CW2 and OWENS then had a short conversation about unrelated matters. During that conversation, CW2 pointed to the \$600 in the door handle, picked up the cash and handed it to OWENS. OWENS took the \$600 and stuck it into the pages of a book he was holding.

26. After the meeting, CW2 met with agents and provided them with the certificates of occupancy that CW2 received from OWENS. CW and his/her vehicle were then searched again and found to be free of any cash or other contraband.

27. City of Chicago records show that the estimated cost of work done before obtaining the Wolcott certificate of occupancy was \$250,000. City of Chicago records show that the estimated cost of work done before obtaining the Wallace certificate of occupancy was \$180,000.

28. City of Chicago records show that the estimated cost of work done before obtaining the second Wolcott certificate of occupancy was \$250,000. City of Chicago records show that the estimated cost of work done before obtaining the West 37th Place certificate of occupancy was \$180,000.

29. City of Chicago records and the City's web site reflect that the City of Chicago is a unit of local government that received in excess of \$10,000 in federal funding in a twelve-month period from July 21, 2005, through July 20, 2006.

V. CONCLUSION

30. Based on the facts described above, I submit that there is probable cause to believe that DOMINICK OWENS violated Title 18, United States Code, Section 666(a)(1)(B), in that on or about July 20, 2006, OWENS, being an agent of the City of Chicago, corruptly solicited and demanded for the benefit of any person, and accepted and agreed to accept anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, and series of transactions of the City of Chicago, involving anything of value of \$5,000 or more, the City of Chicago being a local government that received in excess of \$10,000 in federal funding in a twelve month period from July 21, 2005, through July 20, 2006.

ANITA A. STAMAT
Federal Bureau of Investigation

Subscribed and sworn before me
on this 21st day of September, 2009

Nan R. Nolan
U.S. Magistrate Judge